Collection

App. F. IX-4

*Previous References*
nil 138-33-1.

1937
(Legis)

File No. 2393
Serial Nos. 1-2.

*Letter References*
CS 168-40 (1-5)

223

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos.* Two only

Part A for February, 1939.

SUBJECT.

Promulgation of law of the Mysore Extradition Bill.

(1) To The Compiler, Laws.
No. P 4652 of 10.2.38

WD 0295—GPB—22,500—18-8-37

Ordered that the Extradition Act be published as Act VI of 1938 in the Mysore Gazette

Mysore Gazette Extraordinary

Copy on record in Fr. Dept. Indian States

al and Revenue Secretar | File No. | of 193 | [App. F. III.

Serial No.

1 Sealed. Write an Index Book and Statement of Objects & Reasons.

2) The file re: the arrangement proposed by Cl 191-32 which may be recorded and placed in this file. Please get the draft put up typed in half margin

16/11/33

3) Sealed. Write this file & the Index Book upon

21/11

4) I have slightly revised the draft. This is perhaps just sufficient to legalise the procedure regarding Extradition & Surrender betn Mysore & other native States.

5) Now that however article 18 of the Mysore Treaty is abrogated, the question of having a consolidated Regulation dealing entirely with extradition on the lines of the Indian Extradition Act, & so as to replace the present chief Comrs notn of 1878 may perhaps be considered. Before however submitting this matter for orders, I wish to know whether all the formalities necessary to give effect to H. Viceroy's recent pronouncement regarding Cl 18 have been [illegible]

available which indicate the procedure to be hereafter followed if legislation is to be undertaken to amend or modify the pre-rendition laws, may kindly be furnished.

(C.B) MM 2/1/34

(The C.B. has no later information on the po

6) I remember there was a recent letter from the Residency intimating that a Khalita will be presented to etc. The papers are I believe in the Prohn Br. itself The Dewan's office also may be consulted

Offr 2/1/34)

MM 4/1/34

7) The file referred to at para 6 above was sent along with the file relating to the amendment of C.P.C. to the

8) Please let me see the Resy letter after it is received back.

MM 3/1/34

9) The Residency letter referred to is contained in the file linked above is sent

10) The undersecy told me just now

Serial No.

that the Khanita was moved & that orders have been passed for abrogating the chief Comr's notn of 1878 & enacting a comprehensive reg^n re: extradition.

Please put it up

Urgent DRG
19/1/34

11) Member's orders on the D.O. letter No: 257/En 2 dated 3rd Jan 1934 from the P.S. to H.H to the Dewan of mysore forwarding copies of the Khanita and His Highness's reply to it :-

"Action will now be taken re: certain legislative measures such as re: Extradition

Sd) K.M
6.1.34.

12) A draft Bill to amend and consolidate the law relating to extradition is herewith put up for favour of consideration and orders.

The bill is modelled on the lines of the Indian Extradition Act XV of 1903, but deals only with extradition between (1) Mysore and British India and (2) Mysore and other Native States in India. Since Mysore has and can have no relations with Foreign States, no special provisions are made for surrender of Criminals in case of such Foreign States. The prerogative right of His Highness to direct the extradition of any criminal in Mysore is, however, declared and preserved in Clause 22 of the Bill. The language of this clause is taken from Sec. 16 of the Mysore Legislative Council Regulation, 19[illegible].

Chapter II of the Bill deals with the surrender of

Serial No.

fugitive criminals in case of Native States in India. Since this applies only in case a reciprocal arrangement is made between Mysore and the Native State, Clauses 3 and 4 of the Bill are necessary and are based upon Sections 2, 6 and 7 of the English Extradition Act. The procedure prescribed for surrender of fugitive criminals in case of Native States is the same as that provided for in Chapter II of the Indian Extradition Act in case of Foreign States. The main features are -

(a) a requisition has to be made by the Native State through the Residency.

(b) Government have to direct an enquiry by a Magistrate.

(c) The Magistrate has to issue process and enquire whether a prima facie case is made out. In such enquiry, the depositions etc., taken in the courts of the State requiring surrender may be received in evidence (clause 18 of the Bill).

(d) The Magistrate after enquiry has to make a report.

(e) Government then may issue the warrant for surrender.

The chief difference therefore between the procedure now followed and that prescribed in the Bill is the enquiry by the Magistrate. But even if the Magistrate finds no prima facie case, Government have power to issue the warrant for surrender if they disagree with the finding of the Magistrate. It is, therefore, submitted that the provisions made in the

Serial No.

Bill do not in any way conflict with the arrangements now existing between Mysore and other States in India, such as Hyderabad etc.

Chapter III is the important chapter of the Bill and deals with surrender in case of British India. Since this may be even for nonextradition offences, the Chapt is headed "SURRENDER OF CRIMINALS IN CASE OF BRITISH INDIA". Clause 8 of the Bill follows Sec.7 of the Indian Extradition Act, but makes it obligatory on the part of Government to issue the warrant for arrest and surrender if the requisition is in respect of an extradition offence. Government under the clause have, of course, power to refuse to issue the warrant in case the find no reasonable grounds to suppose that an extraditi offence is committed. Clause 10 of the Bill deals with requisitions in respect of offences other than extradition offences. In such cases generally the procedure is that prescribed in Chapter II but a proviso is added to this clause in order to provide for the due fulfilment of the obligations under Article 15 of the Mysore Treaty.

Clause 12 deals with the surrender of persons convicted and undergoing imprisonment in Mysore and this replaces the Government Notification of 20th July 1907 which along with the Chief Commissioner's Notification of 1877 is repealed by Clause 21 of the Bill.

6 Mysore excavation laws

File No. | of 193 | General and Revenue Secretariat

Serial No.

14) Re Extradition Bill & its Statement of Objects & Reasons are for consideration

Chief Secretary) 6 24/9/32

15) RG 28/3/34.

16) The 1st Member has some changes in Bill & Statement of Objects & reasons. They may be retyped as revised & submitted

6e 28/4/32

17) Submit with clean copy of Bill revised

18) A clean copy of the Bill as approved & the Statement of Objects & reasons are submitted

Chief Secretary) 6 5/5/32

1st Member) RG 5/5/34.

19) The bill & the Objects & reasons have been prepared & issued under my instructions -

They may now be submitted to the Dewan for approval & circulation. It is desirable to introduce it before the R.C. is gone

6 6/5/32

20 RG 9/5 Dewan 22 6/5

DEWAN'S OFFICE 9 MAY 1934 No. 2067

TYP 2 & APR GENL. & REV

OFFICE OF THE FIRST MEMBER OF COUNCIL 8 MAY 1934 No. 8222

Mysore Extradition Bill

General and Revenue Secretariat | File No. | of 19 | [App. F. III—1

Serial No.

Second Member) Ce 11/5/34

DEWAN'S OFFICE
16 MAY 1934
No. 7811

21) I agree. I had not seen this file when I noted on the file re Judt of the High Court. It abmt may be made as that Judt in the St of Objects & Reasons

Vide articles & Statement of Objects & reasons.

a D.F.N. may be put up

Ce 11/5/34

22) Submitted with D.F.N.

First Member) Ce 14/5/

F.N. Signed by Member.

CEG. 15/5/34

23) D.S.N. put up.

Dewan)

RR 16/5/34

16-5-34

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-34

**Final Note by the First Member of Counci**

24)

***Subject:—***

Bill to amend and consolidate the law relating to the extradition and rendition of criminals.

The procedure for giving effect to the extradition and surrender of fugitive criminals from Mysore rests mainly on executive action and has no statutory basis.

The Chief Commissioner's Notification No.III dated 23rd July 1878 prescribes the procedure so far as the extradition of fugitive criminals to British India is concerned and reciprocal arrangements have been entered into with some States, such as Hyderabad, Cochin, Pudukottah, Travancore, Sandur, etc.

Under the Chief Commissioner's Notification, whenever a warrant is issued by a British Indian Magistrate for the surrender of a fugitive criminal, it has to be acted upon by the Mysore Magistrate as if it were a warrant issued by himself, whether the offence for which extradition is demanded is an offence under the law in Mysore or not. But under the Indian Extradition Act of 1903, extradition from British India is allowed only in respect of some few offences specified in the Schedule to the Act. According to it, a requisition has to be made to the British Resident who, after satisfying himself that a prima facie case has been made out, issues a warrant for the arrest of the accused. Though the intention of the Chief Commissioner's Notification appears to have been to limit the operation to extradition offences and a few other offences, such as, under the Breach of Contract Act, in practice, all offences, and even offences of a purely fiscal nature which could not have been contemplated as offences when the Notification was issued have been brought under it.

The general principle underlying extradition between States is that surrender of criminals should be made only in res-

respect of crimes which are recognised by the general conscience of civilised nations as grave offences.

The existing law and procedure in respect of the surrende of fugitive criminals to British India as regulated by the Chief Commissioner's Notification have been examined in detail in a re cent judgment of the Full Bench of the High Court in Criminal Revision Petition No.192/1932-33. It has been held in that case that the Chief Commissioner's Notification has the force of law in Mysore, but that the British Indian Magistrate was not legally competent to issue a warrant for execution outside British India and that his warrant for execution in Mysore was illegal and without jurisdiction.

In these circumstances, it has been considered desirable and necessary to place on a statutory basis the procedure adopted for the surrender and extradition of criminals from Mysore to other States and British India and a Bill has accordingly been drafted to give effect to this and also to remove the anomalies and inconveniences existing in the present procedure. The Statement of Objects and Reasons accompanies the Bill.

627 The draft has been agreed to by the Dewan and the Second Vol. Member of Council. I now solicit gracious sanction of His - - Highness to place the statement of general principles of the Bill in the Representative Assembly and introduce the Bill itself in due course in the Legislative Council.

Kuttan

Bangalore,
15th May 1934.

MEMBER OF COUNCIL.

Submitted to His Highness.

---

(25) I submit herewith a Final Note by the First Member of Council regarding the Bill to amend and consolidate the law relating to the extradition and rendition of criminals,

for His Highness' gracious approval.

Mirza M. Ismail
Dewan.
16-5-34

Bill to amend and consolidate the Law relating to the extradition and abscondings of criminals

(*)

31. All urgent or confidential files returned with His Highnes ' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Head-quarters and then sent to the Secretariat concerned for the issue of orders.

27) Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*) (*Vide Rules* 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

R. Rangachari

*Chief Secretary to Government.*

Through the Secretary to Government,

.....Department.

FIRST MEMBER OF COUNCIL. (Seen)

SECOND MEMBER OF COUNCIL. a true c from the Bill

NOTE.—Contn. sheet.

**Record of Cases submitted for the Orders of His Highness the Maharaja.**

## *Subject.*

Bill to amend and consolidate the law relating to the extradition and rendition of criminals.

5-94

## *Order.*

~~KRW~~
19/5/34

The Guyana Extradition Bill

| File No. | of 193 | General and Secreta |
|---|---|---|

Serial No. –

4) Re. Subd with refce to paras 31 & 32 supra.

Proof copy of Bill with Statement of Objects and Reasons is put up.

This may, if approved be sent to the R. & V. I. C. Office for being published under Rule 8 as directed at para 30. The Statement of Objects and Reasons may be adopted as the Statement of General Principles, since the Statement contains enough details.

After the file returns from the L.C. Office Notice in respect of the Bill for the L.C. viz to be read in Council and ref to S.C. will be prepared & laid

Dom 25/5/34

35) Re Statement of Objects & Reasons which clearly indicates the scope of the Bill may be adopted as the Statement of General Principles to be placed before the R.A

Asst Secretary)

1st March

R2: 35/34

36) 35) Re

OFFICE OF THE FIRST MEMBER OF COUNCIL 28 MAY 1934 No. 4263

CHIEF SECRETARY 25 MAY 1934

J. A. Stine)

Mysore Extradition Bill (3)

2756

| General and Revenue Secretariat | File No. | of 193 | [App. F. III—2 |
|---|---|---|---|

Serial No.

DEWAN'S OFFICE
21 MAY 1934
No. 1421

28) This may be ordered to be published under Rule 6 of the L.C. Rules & laid on the Table of the L.C.

29) A Statement of General Principles will be placed before the R.A.

Dewan)

Le
21/5/34

30) Le
21/5/34

Rg
22/5/34

Le
24/5/34

31) The Statement of Objects and Reasons may be adopted as the Statement of General Principles

32) 8 approved copies of the Bill and Statements (Objects and Reasons & Principles) will be got typed and sent to Rev A & L.C Office for being placed before the R.A and for publication in the Gazette under Rule 8 of the L.C Rules of Business

Rne 22/5 As the matter is being the original may be sent & Press proof called for. Draft & fair do is kept

Rne 22/5

33) 3/5

WD 0434—GPB—15,000—12-10-32

Serial No.

38)
Subject

The statement has been included in the Agenda for the evening Budget Session of the R
This may be returned to Protection Branch for final action.

BVN Prot. Branch
5/6. with compliments

5/6

No. 5436/P.C. Bangalore Dated 29th May 1934.
for publication in the Gazette under Rule 8. of the Rules of Business.

Prot. Branch
with compts

6/6/34

Letter No 1245 of 1.6.1934 from the Superintendent Central Jail stating that Offences under ss 453 to 460 I.P.C are being regarded as extradition offences and as such may have to be included in the Schedule of the Bill 39/34 is perhaps unnecessary to include these as they are only aggravated forms of Housing House Trespass which has been

16 The Keyboard Radiation Bill

File No of 19 Gene

included in the Schedule (ss 4 4 3 4 4)

A printed copy of the Bill published under Rule 8 is placed in the file.

Orders are solicited as to whether the Bill has to be referred to a Select Committee after it is read in Council. The following motions are suggested for orders:-

(1) Motion that the Bill published under Rule 8 of the Rules of business be read in Council

(2) Motion that the Bill be referred to a Select Committee. Mover: The First Member of Council Seconder: The Chief Secretary to Govt

16

40) Reference to S.C seems to be necessary. But the Committee will be asked to report in Three days

Chief Secretary)

Ce 7/6/34

RR 8/6/34.

(Statement

41) Ce 8/6/34

Ce 8.

RR 8/6 - Ce 9/6/34

OFFICE OF THE SECRETARY 11 JUNE 1934 LEGISLATIVE ASSEMBLY EXECUTIVE COUNCIL

OFFICE OF THE FIRST MEMBER OF COUNC 8 JUNE 1934 No. 957

R.A. & L.C

Files for second reading

(noted and put to the Prot. Bk. and complete)

Serial No.

42)

The proceedings relating to the Bill in the D.A are here put up.

The personnel of the Select Committee have to be settled.

Thereafter the file may be sent to the Members Office

Done
21/6

To

The L.C Office for kindly putting up a copy of the proceedings of the meeting regarding this Bill

Done
5/7
Copy of proceedings re- Extradition Bill is put up herewith.

Done
12/7/84 (Probably work complete)

43) Sent with a copy of the L.C Proceedings. An abstract of points suggested is also put up.

The Bill has been referred to a Select Committee.

Orders are solicited regarding

The Supreme Extradition Bill

le No. of 193 | General and Revenue Secretariat

the date for calling for a meeting of the S.C.

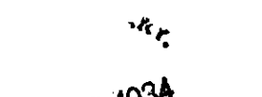
A draft to the Residency & also Rubs as directed

ne 2/7/34 13/7/34

to Residency

44) Typed draft as instructed submitted Chief Secretary)

Ce 27/7/34




45) M. let me have a fair draft as usual

RR 27/7/34.

46) Fair draft submitted Chief Secretary)

Ce 28/7/34

RR 28/7/34

1st member

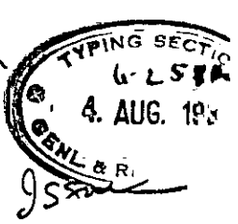
Draft now as instructed

Ce 1/8/34

47) Please submit for approval Dewan

RR 2/8/34

Ce 3/8/34




48) JM 3-8-34

JS

621

The Leys Extradition Bill.

General and Revenue Secretariat | File No. 100 of 1934. | [App. F. III—2

Serial No.

1 Dol No 132 of 6.8.34 to the Secretary to the Hon'ble Resident Amritsar refer to Dol No 227 of 1.9.33. in which legislation was indicated, explains the position of the Leys in matters of extradition, forwards copy of Bill introduced and states that it is likely to be passed at the next Session of the Legislature.

Cannot we fly to?

49) Issue a reminder for orders re the date of meeting of the S.C

Done 7/8 Gross.

50) A date in the last week of August or the first week of September may be selected

(for Member) 7/8

51) We shall fix a date about the middle of Sept. - (Let us see what the Legislature has any say in this) - Kindly put up about 20th Dec

OFFICE OF THE FINANCE MEMBER OF COUNCIL 8 AUG. 1934 No. 1048

627 20

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

52) 24th Sept 1934 I.P.R. is from the Select Committee on the Extradition Bill Notice may be issued

C.E. 30/9/34

53) Draft Notice of meeting sent.

Sent 4/9 Issue C.E. 30/9

GOVT. OF INDIA 4. SEP. 1934 GENL. & REV. SECTT.

Notice of meeting issued No. 1267-74 dt. 6.9.34

date of meeting 24.9.34. 11 A.M.

54) A copy of the Bill as amended by the S.C. is herewith put up for sanction: If approved a copy may be sent to Press and printed copies obtained for being sent to Govt. & others as the corrections are many.

Get a proof copy but it will be printed on the Govt. Press

The Report may be sent to the Office for publication under S.O. 49

Sent 27/9 55) Draft notification posted for approval.

27/9/34

OFFICE OF THE SECRETARY, REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL. P49/R.L. 27 OCT. 1934



WD 0955—GPB—22,503—12-6-34

56) Issue

The Cyprus Extradition Bill. 6270

File No. of 19

No. Pol 9.8/P.L.1-34-2. Dated 28-9-193

57) A copy of the amended Bill may kindly be sent for being printed and distributed amongst the L.C. members.

Prot. to Dr. with compts)

1/10/34

58) Sent with copy of Bill as amended by the Select Committee

1) Post mg the Govt

No F.640-04 Dt 10.10.04

From: The Secy to the Resident

Acknowledges the letter of 6.8.04 forwarding copy of the Extradition Bill and states that a reference has been made to the Govt of India & that a further communication will be made in due course. The Secy also requests the supply of two more copies of the Bill.

60) Sent for perusal. Draft forwarding copies of Bill in duplicate

10

1) The form in which

Re Mysore Extradition Bill

22

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

Reference need to communicate points
the abrogation of Art 18 of the Treaty
in respect of the Bill requiring sanction
of Govt of India as at Page 6.

62) The present letter does not say
that we have to await a further Communication
on the Copies of the Bill which accompanied
the Residency
Memorandum.) 12/10/34

Rly

1st Memo 12/10.

63) 13/10/34

Rly
13/10

64) 13/10

OFFICE OF THE FIRST MEMBER OF COUNCIL 13 OCT. 1934 No. 2959

OCT. 193 GENL & REV. SECTT

Issued vide Pol 421 of 22.10.34

Sms 29-10-34

Letter No: 7645-34 dated 8th Nov 1934
from the Residency stating that the Govt
of India have telegraphed that the
Mysore Extradition Bill requires the
previous consent of the Governor General in
Council & that further orders would be
Communicated as soon as possible —

WD 01955—GPB—22,500—12-6-34

65) Please let me have this file now.
Sd. R.R. 9.11

66) Subd. with file.
(Ref Seq) — — — — —
9.11.

67) "To be dealt with as an urgent matter — Does this require sanction"
Sd R.R 9/11.

68) Under art: 18 of the mysore Treaty ~~Case Extradition~~ the previous ~~sanction~~ consent of the Governor General in Council was necessary and was being obtained whenever legislation was undertaken to repeal or modify pre-rendition laws or rules having the force of law — After the abrogation of this article in the Treaty, the necessity for obtaining such consent must be deemed to have ceased, unless ~~there any~~ the proposed legislation is such that the previous consent would anyway be required under some other article of the Treaty —

69) Now the Mysore Extradition Bill, dealing as it does with the Surrender of Fugitives from mysore to British India & other States, modifies the arrangement embodied in the Chief Comm's notn

Serial No.

Perhaps the Govt of India may argue that though their previous consent may not be necessary to repeal the said notification, yet since the notification itself depended on a mutual understanding arrived at between the Govts of Mysore and India, such arrangement cannot be altered except by mutual consent - Since however the Extradition Bill even when it is passed, takes effect only upon Govt issuing ~~an~~ a notification bringing it into force, the time for obtaining such consent is perhaps after the bill is passed. This, I think, was the procedure followed by the Govt of India itself when it passed the Indian Extradition Act of 1903.

10) In the absence of information as to how and why the Govt of India say that the previous consent of the Governor Gen[l] in Council is necessary in this case, it is difficult to discuss the point further - It may be they rely on article 19 of the treaty, which says that no material change in the system of administration shall be made without the consent of the G.G. But it is not easy to see how the Bill now proposed can be said to effect any change in the system of administration - This article of the Treaty obviously refers to legislation

25 The Aryans Extinction Bill 253/

File No. of 193 . | General and Revenue Secretariat

involving Constitutional changes.

2) We have so far proceeded on the assumption that ~~the Bill does not~~ after the abrogation of Article 18, this Bill does not require the previous Consent of the G.G - The Govt of India seems to be of a contrary opinion & it is therefore necessary to await their further Communication in the matter before we proceed with the Bill

Chief Secy 10/11/34

1) We may tell the Resident that we do not see the need for previous reference but that we will wait for a further

Yours
RB
10/11/34.

1st Week — one copy

3) Yr. advice that the Bill will come up for second reading before the

OFFICE OF THE FIRST MEMBER OF COUNCIL 12 NOV. 1934 No. 3200

CHIEF SECRETARY 10 NOV. 1934

10/11/34

The Mysore Vaccination Bill 26

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

76) Fair Typed draft & Enclosure

Note 11/11 77) For perusal & opn

CHIEF SECRETARY. 15 NOV. 1934

C. T. Smith

78) For perusal & opn

16/11.

Dcom.

6/11/34

79) 16-11-34

80) 9/11/34 6/15/4/35

Issued No Pol 527 of 21.11.34

Secy to the Govt of the Resident & States that the views of the Govt of India are awaited to the Bill requires the consent of the Govt of India & that they will however wait for further Communication.

The following motions are suggested

Motion that the Report of the S.C

Re Nigerian Extradition Bill

Legislative File No. 100 of 1934 | General and Revenue Secretariat

and on the Bill and ... as amended by ... then be taken into consideration

... 2 ... Motion ... that the Bill ... as amended do pass

The last Motion has however to be modified to that the Bill be passed at a subsequent meeting of the Council as the Council have written to the Residency that the further Communication of the Govt of India will be awaited

Sd/- [illegible]

Form 23/11

(a) We have informed the Residency that the S.C report on the Bill comes up before the L.C on the 3rd & that we will await the Communication from the Govt of India

The second motion may remain as at A. If the expected Communication from G of I is not received & there is hindrance to the passing of the Bill, the motion may be amended at the session to the effect that the Bill as amended be passed at a subsequent meeting of the Council

Secretary
to Government

23/11/34

OFFICE OF THE FIRST MEMBER OF COUNCIL 24 NOV. 1934 No. 1117

The Mysore Extradition Bill

App. F. III—2.

General and Revenue Secretariat | File No. | of 192

Serial No.

83)

When the appeal we may arrange to "pass" the bill (3rd reading) at a later meeting. Minister asks us kindly to complete details arrangements with the Govt. Please Main Secretary's approach this course—

Ex
26/11/34

84) I had a telephone message from Major Edwards that he realised that his letter No 645 of 8.11.34 was, as he put it, a "silly" letter. He said in confidence that the Govt of India thought that our proposed bill was likely to go against one of the terms of the treaty. I told him that I did not see how the bill could go against the treaty and that in any case, we had already told him that we would await the further views from the Govt of India for a reasonable period.

RR
26/11/34

Secretary
Dewan

Certified

27/11

Ex
27/11

28) Mr
27-11-34

RR
28/11/34

Ex 28/11/34

85) This may be sent to A.G.V.C. for their note of motions required

WD 01694—GPB—39,000—2-34-29

29/11/34

Imperial Extradition Bill

29

General and Revenue Secretariat | File No. 2537/P of 19[illegible] | [App. F. III—2

Serial No.

88) in the light of the First Members' remarks
The second motion has been revised and adopted as follows:-
"(2) motion that the Bill as amended be passed at a subsequent meeting of the Council."

(Prot. Bill as amended)
30/11/34

89 The C/S Secretariat may perhaps take an extract of the members orders at para 83, for record purposes
Form
30/11

90 The motions were accepted the file will be kept in Pol.
Form
20/12
[illegible]

21/12/34

91 on 8.11.34, The Residency wireless that the Govt of India Considered that the Bill required their previous Consent & that orders will be communicated as soon as possible.
No further communication has been received. For orders it is necessary
Chief Secretary
9/12) the enquiry may be made when the

12/3/35

WD 01955—GPB—22,500—12-6-34

Promised - Communication may be supplied

fa 24-5

OFFICE OF THE ... 27 MAY 1935 No. 8459

P. M.

24-5

Yes - ~~it may be stated~~ adding that the hope remains for despatch of the Bill passed at the [redacted] June 35 -

by 25/5 Pol

Draft Secret

see 27/5

by 27/5/35

TYPING SECTION 27 MAY 1935 GENL. & REV. SECTT

Issued no Pol 1274 & 27/28.5.35

Yes Sir 5.6.35

The following motion is suggested for inclusion in the Agenda for the next meeting of the Legislative Council

Motion that the Bill as amended be passed

Mover: The Hon'ble the Chief Secretary to Govt.

Seconder: The Hon'ble the Finance Member

Pol 4/6

Mysore Extradition Bill 31

General and Revenue Secretariat. | File No. | of 193 | [illegible] F. III-2

97 No reply has yet been received from the Residency. Can this above matter be included in the agenda?

Chief Secretary)

CHIEF SECRETARY
3 JUNE 1935

OFFICE OF THE
HON'BLE MEMBER OF COUNCIL
6 JUNE 1935
8793

CC 7/6/35
9x 1/6
5-6
5/6

Sd/ I don't think we need wait anymore + the bill might finally passed at the ensuing session of the LC.
6/6
1/6
C
7/6/35

100
If approved the motion will be included in the Agenda
Bpm
7/6
Sd
10
1 Ø1
C
7/6
To me L.C. copies for kind note
Bpm
7/6
Noted and posted
(Prot. Br. with compts)
Sd/ 7/6

Serial No. 3.

From

The Secy. to the Hon'ble the Resident in Waziristan.

No. H.645-34 dt 15.6.35

States that as the question is still under examination of the Govt. of India assume that the Govt. of Waziristan will prefer to postpone its final reading.

103) Subd. for orders.

Hd/- B.N. 16/6.

104) A motion for passing this Bill has been included in the draft agenda for the L.C.. In view of this letter, this motion will be deleted from the agenda, if approved.

Hd/- C.S. 16/6

Chief Secy. 105) Hd/- K.V.A. 16/6

1st. Member

~~Hd/- [illegible]~~

106) I do not see how the Govt. of India can say that the consent of the Governor General is necessary. Please submit to the Govr.

Hd/- K.N. 16/6

107) Let us write & express our disagreement from the views expressed by the Govt. of India

Hd/- M. D.

The Mysore Exhibition Bill 30

141/P

General and Revenue Secretariat. File No. 40 of 1934 [App. F. III-2

Send with draft to the Residency

From 1876 109 Dupt to appeal (Chief Secretary) to 1876 Dr (1st Mr) Rec 18-6

OFFICE OF THE FIRST MEMBER
19 JUNE 1935
9115

110 to 19/6 Dft 21-6

TYPING
21 JUN. 1935
GENL & REV. SEC.

111 to 21/6

No Dol 1353 of 21-6 35

To

the Secy to the Hon'ble the Resident

States that the motion for passing the Bill has not been included in the Agenda for the ensuing meeting of the Legislature and that the Govt do not agree with the views that the Bill requires the previous consent of the Governor General in

The Cyprus Extradition Bill

34

File No. of 193 . | General and Revenue Secretariat

No F.645-34/R.O.1 of 9.7.35

From

The Secretary to the Resid...

He knowledges this office letter of 21.6.35 (Flag R) and explains that the reason which led the Govt. of India to take the view that the Bill requires the previous Consent of Govr. Govt in Council is not based on Art 18 of the Treaty which has been abrogated but on the fact that the provisions of Chapters II & III of the Bill to some extent affect Articles 10 & 15 of the Treaty

The Residency letter states that the provisions to some extent affect the Art 10 & 15 of the Treaty.

In this connection mind refers is invited to the Statement of Objects & Reasons accompanying the Bill in which the scope of these chapters is laid down

Rome
12/7

113 The Residency letter indicates the reasons which led the Government of India to take the view that th Extradition Bill requires the previous consent of the Governor-General-in-Council. The objection is not based on Article 18 of the Treaty which has been abrogated. It is stated that the provisions of Chapters II and III of the Bill to some extent affect Articles 10 and 15 of the Treaty. Chapter II regulates the procedure in case of surrender of fugitive criminals to other States in India. The objection suggested seems to be that Article 10 of the Treaty precludes communication or correspondence with other States except with the previous consent and through the medium of the Governor-General-in-Council. There is not much substance in this objection. As a matter of fact, extradition arrangements with other States exist even at present, the correspondence or communications passing through the Resident in Mysore and the Political Agents of the other States. These extradition arrangements rest mainly on executive action and have no statutory basis. The object of Chapter II of the Bill is to regularise the existing practice and give it statutory recognition. It cannot be contended that Article 10 prohibits all communications with other States. Communications do take place in respect of other matters also, but they all pass through the Political Agents. It is not proposed to have communications in respect of enter into arrangements or

of extradition matters under Chapter III of the Bill after it is passed directly with the other States. The rules which would be framed under the Regulation regarding the procedure will provide that requisitions under section 5 of the Regulation and other communications shall be made through the Hon'ble the Resident in Mysore. Thus, the terms of Article 10 of the Treaty will be complied with as the correspondence will be with the previous sanction and through the medium of the Governor-General-in-Council.

14 Chapter III of the Bill relates to the procedure regarding surrender of criminals in case of British India. The objection raised is that this affects Article 15 of the Treaty which requires that demands made by the Resident in Mysore for the arrest and surrender of a criminal shall be complied with. Chapter III does not in any way affect Article 15. As a matter of fact, clause 23 in the Bill is specially inserted to enable the performance of obligations under Article 15 of the Treaty and this is made clear in the Statement of Objects and Reasons attached to the Bill. In our last letter to the Residency dated 6th August 1934, it has been definitely stated that this Bill provides the procedure for extradition to be ordinarily followed and that in extraordinary cases where the Hon'ble the British Resident makes a demand under Article 15 of the Treaty for the arrest and surrender of a

1 Extradition arrangements with the States will be entered into with the approval of the Govt of India as at present

Mysore Extradition Bill 37

General and Revenue Secretariat. | File No. of 193 | [App. F. III-2

a person accused of having committed an offence in British India, His Highness' Government would duly comply with it, and provision has been made therefor in the Bill.

115 The Residency letter itself indicates that they are not very sure of the grounds of the objection raised as appear from the words " the provisions of Chapters II and III of the Bill to some extent affect Articles 10 and 15 of the Treaty".

116 A draft reply is submitted for consideration.

BE OFFICE 17 JULY 1935 385

CHIEF SEC. PART. 15 JULY 1935

Chief Secretary) 15/7/1935

117 I think we may await the views of the Govt of India on the bill shortly.

15-7

OFFICE OF THE FIRST MEMBER, COUNCIL 54

Sec'y 15/7/35

118 Yes, I agree (Perhaps it might be that we are going to have direct treaties & understandings with the Indian States - this is a misapprehension By arrangement with the States some can be made through the Resy)

119 Yes please

Secy 17.7 17/7/35

120 Yes 17-7-35 Please do 17/7 18/7

NOTE—Contn. Sheet.

SWSA 18

# Mysore Extradition Bill

le No. 460 of 1934

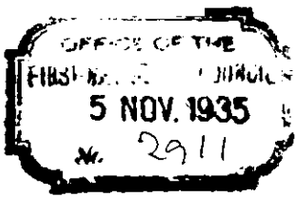
General and Revenue Secretariat

121) No intimation has yet been received from the Govt of India
2) A draft reminder is proposed tentatively

7/11/35

Bm 4/11

(Secretary to Dewan).




123 J/Nov 6/11

124 Jm. 6-11-35

Bm 7/11

125 Home C

Secret Residency No pol 509 of 8th November addressed to the Govt of India with reference to the proposed communication from the Govt of India which was expected

No F. 645-34 of 23.11.35 from the Secy to the Resident.

Sd 9/11

States that the Govt of India have intimated that the Mysore Extradition Bill is under the consideration of the Govt of India and that a further Communication

Jaipur Extradition Bill

General and Revenue Secretariat — File No. 40 of 1934 — [App. F. III–2

Serial No.

on the subject ... to be as soon as possible
126 Subs for formal
Subs for orders as to
whether the final passing
may be put off under
the circumstances.
Dewan
25/11 127 Under the circumstances we
may defer the final passing till
the session 2 June 1936.

DEWAN'S OFFICE
27 NOV. 1935
No. 3631

SECRETARY
26 NOV. 1935

(Chief Secretary) 25/11/35

127 Dewan 28/11

(Secretary) 28/11

OFFICE OF THE
27 NOV. 1935
No. 3699

27/11

130 MS
27-11-35

Dewan 28/11

28/11

From the Secy. to the Hon'ble the Resident
No. F. 323-36 Dt. 6-3-36
States that the Govt. of India consider
that for certain reasons the Govt. of Jaipur
would be advised to proceed no further
with the Jaipur Extradition Bill.

Serial No.

131) Submitted for personal orders
The first instance the file has been
taken by the Dewan with him.

(for Member)
Dewan)

6/3/36

132) This may be ~~drafted~~ sent
to the 2nd member also & then submitted to
H H

7/3

133) Put up for personal
2nd Member)

7-3-36

7/3/36

7/3/36

134) [illegible]

Dewan)

9/3/36

135 [illegible]

*Submitted to His Highness.* 41

13 b) I beg to submit for the gracious perusal of His Highness letter No. F. 373-36/R.O.I. dated 6th March 1936 from the Residency intimating that the Government of India consider that it would be advisable to proceed no further with the Mysore Extradition Bill, for reasons explained therein.

The Dewan has taken the connected papers to Delhi. He has been informed by telegram of the receipt of this letter.

Bangalore, )
9th March 1936.)

DEWAN-IN-CHARGE.

62

**Record of Cases submitted for the Orders of His Highness the Maharaja.**

## *Subject.*

Residency communication regard the Mysore Extradition Bill.

## *Order.*

~~KRW~~

11/3/36

General and Revenue
Secretariat

H.H. 481

SUBJECT:–

Residency Communication
Regarding The Mysore
Khadi(in Bill.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Head-quarters and then sent to the Secretariat concerned for the issue of orders.

38 Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide Rules* 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*Chief Secretary to Government.*

Through the Secretary to Government,

..... Department.

FIRST MEMBER OF COUNCIL.

SECOND MEMBER OF COUNCIL.

6707

Extradition Bill 5551 tel p

Serial No.

142) Submitted with a note

18 Member)

143) I have gone thro the no carefully. It is comprehensive, state the existing provns + meeting the pos varied by the Res[t]

Dewan) 26/3

144) As instructed, I gave the note + the pr to the chief justice. His letter containing his v is placed below

Chief Secretary)

Dewan). 28.3.36.

145) Two copies of the revised note + 2 typed copies of the chief Justices letter are submitted

rough draft ~~[illegible]~~ Sub[d]

9-4-36

146) The draft letter to Res[t] approved by the Dewan placed on the file may now issue. I have made a slight change for two, tod being consequential one —

Dewan) 14/4/36

15/4 the note to accompany the draft letter to Res[t]

21/4

DEWAN'S OFFICE 20 APR. 1936 No. 6350.

WD 03594—GPB—30,000—13-7-35

12/6) Printed draft letter answered. Reply signed & issued

Chief Secretary
Please see copies issued to the Govt. Pleader
Serpanch Post issued
Ce 24/4/36
24-4-36

Thirteen cop
received for t
sent & Resid
Ce 24/4

Fol 1111 of 23-4-36 to Resy explaining the position and asking for a reconsideration of the matter in view of Govt's communal Award Bill

12/6) Obs. The receipt of a reply from the Resy will be awaited till the end of this month if appd

Ellis 15/9/36
Ce 15/9/36

5/ Asked for orders whether the receipt of a reply may be awaited for some time longer.
for orders 20 g. wait for a week more
1.10.

21/10/36
15/9/36 Dft. Reminder submitted for orders
24/9/10/36 Chief Secretary 15/9 May a reminder be issued?
9.10
15/9 Yes.
9/10

Govt. pal 462 of 11.10.36

Wire
10.10

CHIEF SECRETARY
9 OCT. 1936

TYPING SECTION
10 OCT. 19

4222/36

D.L.G.

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

No 7373-36 dy 23-1-37 from Rly Requesting the supply of copies of Govt. of India orders No Pol 25-6 dy 3-5-1878 & No 219 dy 12-4-1875.

1/2 These orders are referred to in our letter to Rly. dy 23-4-36 & in the notes put up on 26-8-36. But the G.O.s themselves are not available. Attempts made in the Secretariat to trace the references have been of no avail.

1/2 References are, however, found made to these orders in Sutton Ch. Dec. Appendix pp xxxi

Subd. for order

30/1/37 158) Please get these portions typed & keep the same in this file & submit

31.1

159) Subd with a copy of the portions typed. Even the references in the

Typing Section or typing copies of portions marked A & B in the Book H.C.J. See T/W

H.B.

TYPING SECTION. G.T.E.—Contn. Sheet. 1 FEB. 1937 GEN. SECTT.

WD 03591—GPB—30,000—18-7-35

File No.

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note (H.A) is probably to the G.O No 219 of 12-4-1875 as is evident from the correction made subsequently (vide H.C)

5/4/37

(a) The G.O's referred to in the Residency letter are No pol 258 dated 3.5.1878
No's pol 219 & 318 dated 12.4.1875

(b) No copy of the Residency letter is now available
The original G.O's are not also available.

G.O pol No 258 dated 3.5.1875 must be the letter referred to and the date 1878 may be a mistake. The G.O of 1875 refers to the grants under cess

(c) No copy of the above two G.O's are available pointed in the appendix to Sohanis. Col McCoo. Copies of them have been made & kept below. If afterwards these copies will be duly mentioned then the G.O No 258 of must be of 1875 & not of 1878.

Chief Secy

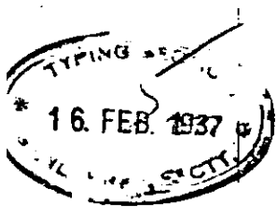
(d) Please hing up with papers.

MS 8/2

S 2

5. FEB 15
GOVT. OF MYSORE.

Serial No.




164) Submitted with a draft reply to Resy as directed for consideration

SG 16/2/37 Chief Secy 9.188

164) Approved. hsg 16.2

MMS 16/2

165) Issued hsg 16.2

Pol & G 3 Dy 17/2 to Resy forwarding extract from Sohoni's Cr. P. C Re the T. O S

No 7.1178 Dy 26/8 from the Resident Stating that the Crown Representative has no objections to the proposed Govt proceeding further with the Bill subject to certain remarks.

167) D. F N submitted for approval. (8 members)

167 SMT hsg 31.8

**Final Note by the First Member of Council.** 129

*Subject.*—

THE MYSORE EXTRADITION BILL.

1) I beg to invite kind reference to my note dated the 9th March 1936 submitting the communication from the Residency desiring that further consideration of the Extradition Bill may be suspended. In April 1936 a detailed letter was sent to the Residency explaining the position of this Government clearly and the Hon'ble the Resident was requested to use his good offices to secure a re-consideration of the matter by the Government of India and their consent to our proceeding with the bill.

2) The Secretary to the Hon'ble the Resident now intimates in his letter dated the 26th August 1937 that the Government of India have generally no objection to this Government taking further action as regards the passing of the Bill subject to certain remarks. The letter is submitted for His Highness' gracious perusal. It settles a long-standing question satisfactorily.

T. Rangagopal

MEMBER OF COUNCIL.

Bangalore,
1st September 1937.

Submitted to His Highness.

---

182 I submit herewith a Final Note by the First Member of Council re: the Mysore Extradition Bill,

.....

.....

for His Highness' gracious approval.

Mirza M. Ismail —

Dewan.

2 Sept 1937

Record of Cases submitted for the Orders of His Highness the Maharaja.

*Subject.*

The Mysore Extradition Bill.

*Order.*

) KRM
3.9.37.

H. H. 119 52

General and Revenue
Secretariat.

SUBJECT :—

The Mysore Extradition Bill

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(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

184 Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders.* (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*Chief Secretary to Government.*

Through the Secretary to Government,

..... Department.

970 6/9 FIRST MEMBER OF COUNCIL.

1857 6/9

1857 6.9.37 SECOND MEMBER OF COUNCIL.

186 9/9/37

L. Grey (Retd.) 9/9

1344/37.

D456

57

The letter from Secy to Resident regarding Chamarajendra Library has to be acknowledged

Sd/ 1.9

188) Please note the receipt of this letter

Sd

Secy. No. 11178-37 dt. 26.8.37. R.O.I.

Draft sent.

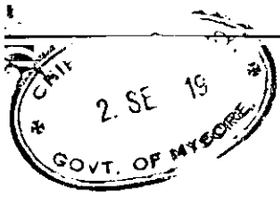
Sd/ 1.9

Sd/ Chief Secy) Sd/ 2.9

DEWAN'S OFFICE

1727

50




190 Draft sent for sgd.

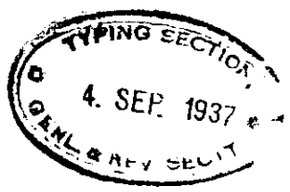
1st Member, Dewan

MS 2.9.37

Sd/ 2.9

191) Sd/ 3/9

(This will have to be included in the agenda for L.C.)



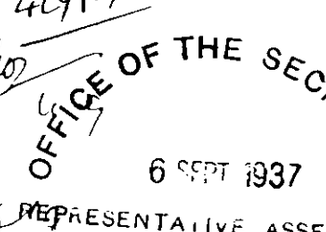

192 Sd/ 3-9-37

Protection Branch

Le office will please note this & advise

Sd/ 4.9

193) Issued MS 4/9/37 Sd/




Issued vide P.O. 326 & 5

Re L.C. office for noting under Secy's orders.

Sd/ 6/9 Mark

The Impress Extradition Bill. ) 456

Noted and pass to the Brit. Bn)

10.9.23

Extradition Bill 54



erial No. (95)

The Resy. has made suggestions for incorporation in this Bill.

Suggestions in paras (a) and (b) have already been made by the Select Committee

Suggestion in para (c) is for orders. The Explanation will make the position clear. It is to provide for extradition in such cases which will not be covered by the other provisions in the Bill that power is taken in clause 23 for the exercise of the prerogative and the Explanation suggested by the Resy would cover even cases which are offences in Br. India but not so in Mysore

Suggestion in para (d) is accepted.

Para 4 — Clause 20 (2) (a) has been omitted by the Select committee. The

(a) The Bill as amended by the select committee will be taken as the basis.

(b) The last time that a motion was made in respect of the Bill was in Dec 1934. When the Select Committee report was presented & the Bill considered. A further motion was made that the Bill might be passed at a subsequent meeting of the Council.

So all the stages of the Bill had been gone through except the last stage of final passing. At that stage only amendments ~~could be~~ moved only by the

Serial No.

Govt. There is therefore nothing for the Council to do in respect of the Bill except final passing

Under Rule 9 of the rules of business any Bill respecting which no motion has been made in the Council for the space of two years may, by order of the President, be removed from the list of business

If the President has no objection the Bill may, it seems, be included in the agenda for the next L. C. meeting.

But it has been the practice to take up whatever Bills remain undisposed of at the expiry of the term of the L.C., afresh as a matter of course in the new Council.

It does not, however, seem to be necessary to

Extradition Bill

Leg. File No. 260 of 1934 | General and Revenue Secretariat

Consult the R. A. as to the statement of general principles of the Bill which have to be placed before R. A. or its opinion ascertained. This was done in the present case in June 1934. There is no time limit within which the Bill has to be introduced in L. C.

R & B 6 to 10 & 11 A. Sec 9 A. Reg.

(2) Points for orders are:—

(1) Whether the suggestions made in paras 2 (c) and (d) of the Resy letter may be adopted.

(2) Whether the Bill has to be republished or reintroduced in the L. C or motion for final passing may be included in the agenda of the next L. C session.

(3) Whether it is necessary to consult R. A again.

Submitted for orders.

11/9/37

Serial No.

184) Three points arise for consideration now.

(1). Whether the suggestions made in paras 2(a) to (d) of the P.U.D. have got to be incorporated in the Bill. In the P.U.D. four suggestions have been made. The suggestions made in (a) and (b) have already been accepted by the select committee and the necessary changes have been made in the Bill. With regard to the suggestion in (c), I think we can adopt it as it will make the definition of " criminal " more clear than what it is. The explanation as suggested may therefore be accepted. The explanation provides for cases which will not be covered by the existing provisions in the Bill. The suggestion in para (d) substituting the words " Provincial Governments" for " Local Governments " will be followed.

Another suggestion in paragraph 4, viz., the amendment of Clause 20(2) (e) becomes unnecessary, as the clause itself has been omitted.

(2) The next question is, whether it is necessary to republish the Bill and reintroduce it in the Legislative Council or whether a motion for final passing may be included in the agenda. The present Bill had passed through the select committee of the previous Council and the report of the select committee had been accepted, only the final passing of the Bill was postponed for a future date on account of the objections raised by the Government of India. The Council in which

which all these stages had been passed through is no longer in existence and the new Council has been reconstituted. The procedure in the British Indian Legislative Councils and the Legislative Assembly shows that as soon as a Council is dissolv all Bills which have been introduced in the Chamber which has been dissolved and which have not been passed by the Legislature, shall lapse. (Please see page 35 of the Manual of Business and Procedure relating to the Legislative Assembly; page 29 of th Manual of Business and Procedure of the Council of State; Rule 21 A of the Bombay Legislative Counc Rules) But in Travancore and Cochin, the Government Bills are allowed to be carried on from Council to Council and the dissolution of a Council will not allow Government Bills to lapse. There is no specific rule either in our Rules of Business or in our Standing Orders as to what should happen when the several stages of the Bill are not complet during the life - time of one and the same Council. But the convention that has all along been followed here is that a Bill which is not finally passed before the closing of one Council shall lapse and that the Bill must pass through all its usual stag when it comes before the new Council. In the December Session of the Legislative Council, 1933, the then First Member ( Mr. Matthan ), while introducing the Bill to amend the Criminal Tribes Regulation and making a motion for suspending the

Serial No.

the rules of Business and standing orders and for taking the Bill into consideration at once without reference to a select committee and passing it, was of opinion that that was the last session of the Council, that there was no likelihood of the Council meeting again and that if the Bill was not passed then, the whole procedure had to be gone through again in a new Council. Sir M.N. Krishna Rao, the officiating Dewan, was also of the same opinion in regard to the Bill to restrain the solemnisation of Child Marriages in the State. He has observed as follows:

> " The present Council has only some seven months before it and it cannot therefore deal with this measure in all its stages. If the Bill is taken up in the December Session, it is bound to lapse and has to be taken up de novo when the next Council is formed. In these circumstances there is no object in including in the agenda for the next session the motion for leave to introduce this Bill. "

In the October Session of 1936, though statements of general principles of certain Bills were placed before the R.A. (such as the Village Offices Regulation Amendment Bill), those bills were not actually introduced in the previous Legislative Council. They were introduced only in the new Legislative Council which was constituted in June 1937. Even when the Hindu Law of Exclusion from Inheritance Bill was before the Legislative Council in December Session of 1936, it had to be withdrawn on the ground that that was the last sess:

File No. of 193 .

General and Revenue Secretariat

Serial No.

session of that Council and the sense of the House was that the Bill had to be referred to a select committee. While introducing it again in the new Council, all the necessary formalities had to be observed. It therefore follows from these instances that there has been a convention as mentic above. When the Bill lapses at whatever stage it may have been in the previous Council, in the absence of any rule to the contrary it must be presumed that it must pass through all stages in the new Council. I therefore submit that the Extraditi Bill has to be published and introduced in the new Council, under Rule 8 of the Rules of Business. As this has been scrutinised by the previous Council and by a select committee constituted for that purpose, it may not be necessary to refer it again to a select committee and the bill may be passed at one sitting of the Council, suspending the rules of business.

(3) The third question raised is, whether it i necessary to consult the Assembly again. There is no rule to say that the general principles of a Bill should go more than once before the R.A. In 1930, in regard to the Irrigation Bill, such a question was raised. Some members of the Legislative Council contended that before its introduction in the Legislative Council, the new Assembly which had come into existence by then should have been consulted. The President over-

Serial No.

over-ruled that contention and held that there was no need to consult a new Assembly before introducing the Bill in the Legislative Council which had been reconstituted. All that Section 9 of the R.A. Regulation says is that when any Bill is proposed to be introduced in the Legislative Council, the general principles underlying it shall be placed before the Assembly for ascertaining its opinion. It is nowhere stated that when the general principles are placed before the Representative Assembly, the Bill must be placed before the Legislative Council only during the life-time of that Assembly before which the principles are placed. It is not therefore necessary to consult the Representative Assembly again.

190) Necessary steps will be taken to publish the Bill as amended by the select committee and as suggested by the Residency, under Rule 8 of the Rules of Business, and to introduce it in the Legislative Council as ordered.

1st member Thro' Gen Secy

2/10/37 1·10

GENERAL SECRETARY. 1 OCT. 1937 1958

2 OCT. 1686

191) at Nepal

1921 agree. Hitherto 2/10 and the Convention on which Govt have been acting, though there is no rule of business is that all bills 2/10

1344

Extradition Bill

File No. of 19

General and Revenue Secretariat

lapse with the dissolution of the Council, if they had not been passed into law. The authoritative statements quoted in the A.S.'s note by the previous Members of Cl. are based upon the accepted practice in the all the legislative bodies with some few exceptions.

DEWAN'S OFF
13 OCT 1937
No. 2578

1937 The Reform Assembly need not be consulted again as there is no impt. change.

1937 The suggns made by the Res.t may be accepted & the bill published under rule 8 & passed at one sitting →

SBN 9/10 Dewan 12/10.

Dewan) 12/10

1935) Mo 13-10-37

Dewan 14/10

14.1

Serial No.

1948 ... as amended by the Select Committee has been drafted incorporating the suggestions of the Party and a draft Statement of objects & reasons is put up for approval.

After the St. of objects & reasons is approved the Bill with the St. will be sent to L.C. Office for publication.

Submitted for orders

1949 When the Bill to amend Income Law was with Draftsman & the introduced in the newly Constituted Council the Bill with the St. of Objects and reasons as it was originally drafted was republished.

Similarly the St. of objects & reasons put up originally may perhaps be republished with those additions in the typed sheets.

Placed for orders.

1950 ...

Extradition Bill 1937

File No. 1195 of 19

General and Revenue Secretariat

To L. C. Office. with 2 copies of the Extradition Bill and Set of objects & reasons.

SC 24/11.

Two copies of the Bill taken and file pctd.

25/11/37

Subd. with a memo forwarding a copy of the Bills. to H. Rev as promised

SC 21/12 20/12 Duirne 21/12

Issued no Pol 683 of 20/12/37

Submitted herewith 2 books.

(S/Member) 18/1

The Bill was passed by the A at its recent Session

Subd. with D. & N

SC 27/1/38 (S/ Member) This Gen Secy 28/1 28/1

A copy of the bill as passed may be sent to the Hon Res. Showing how all the Suggs made have been adopted in Contn of previous letter. Let see draft please SD 29/1

OFFICE OF THE SECRETARY
24 NOV 1937
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL
5088

OFFICE OF THE FIRST MEMBER OF COUNCIL
JAN 20 1938
No 4658

GENERAL SECRETARIAT
28 JAN. 1938
4254

**Final Note by the First Member of Council.**

***Subject.—***

PROMULGATION INTO LAW OF THE MYSORE EXTRADITION BILL.

On 19th May 1934, His Highness was graciously pleased to accord sanction to the introduction of the Mysore Extradition Bill. It was introduced in the Legislative Council in June 1934 and referred to a Select Committee. The Bill as amended by the Select Committee was considered and adopted by the Council in December 1934. But the final passing of the Bill was postponed at the instance of the Government of India who felt some objection to it.

(68) As already submitted for His Highness' gracious perusal, intimation was received in August 1937 that His Excellency the Crown Representative, with the concurrence of the Government of India, had no objection to the Mysore Government proceeding with the Bill subject to certain remarks. The suggestions made in the Residency communication dated 26th August 1937 have been adopted. As the Bill had lapsed in the meanwhile, it was re-introduced in the Legislative Council at its recent session and passed at one sitting suspending the Rules of Business as having been finally discussed already and examined by a Select Committee.

(69) I solicit the gracious sanction of His Highness for promulgating the Bill into Law.

Bangalore,
31st Jany. 1938

FIRST MEMBER OF COUNCIL.

*Submitted to His Highness.*

2 (50) *I submit herewith a Final Note by the* First *Member of Council on the subject of* promulgation into Law of the Mysore Extradition Bill *for His Highness' gracious* ~~approval~~ sanction.

Mirza M. Ismail

Bangalore,
31st January 1938. *Dewan.*

**Record of Cases submitted for the Orders of His Highness the Maharaja.**

*Subject.*

Promulgation into Law of the Mysore Extradition Bill.

General and Revenue
Secretariat.

H. H. 428

SUBJECT :—

**Promulgation into Law of the Mysore Extradition Bill.**

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(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

212 2/2

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*Chief Secretary to Government.*

Through the Secretary to Government,
General Department. 4/2

5068
4-2-38

FIRST MEMBER OF COUNCIL.

213) SPL 4/2

214)

5703
5-2-38

SECOND MEMBER OF COUNCIL. 6/2/38

215) Secy to Govt, Gen Dept with compliments

7.2.38

Extradition Act

General and Revenue Secretariat | Leg. File No. 23 of 1937. | [App. F. III—2

Serial No.

GENERAL SECRETARY. 9 FEB. 1938 4465

TYPING BRANCH 10. FE. GNL & REV

21) Subd. with a draft order for publishing this Act in Gaz. 9/2/38.

22) Gen Secy Collector Police Stations Magistrates Revenue Dwn — 9/2

23) Hoblene Dwn leg 9.2

24) Secretary leg 9.2

25) 9/2/38 Dro P 4052 — ordering this publication of this Act as Act No VI of 1938.

26) Subd with a draft to Govt. (Refer paras 66 & 58)

Sec 16/2

27) Please find a copy as desired leg 16.2

28) Dypw Dept Subd

Sec 16/2 Chief Secy) leg

29) For perusal before issue) 17.2

1st member) DMS 17.2.38

30) JDR 17/2 leg 17.2

31) DMS 17/2

Gen Secy) for perusal & return leg 16.2

32) issued Dwn 18/2

leg 18/2 Issued vide pol 930 of 21-2-38

GENERAL SECRETARY. 16. FE. GNL & REV SECTT.

S 2269 17/2

GENERAL SECRETARY. 18 FEB. MYSORE 6659

NOTE—Contn. Sheet.

WD 0231—GPB—30,000—13-5-37

Statement of Objects

The Mysore Untouchability Bill was introduced in the Legislature in June 1934 and was referred to a Select Committee. The report of the Select Committee was considered by the Legislature in Dec 1934 and the Bill as amended by the Select Committee was adopted by the Council. The passing of the Bill was, however, postponed to a subsequent meeting as no further motion was made in the Legislature in respect of the Bill since Dec 1934. The Bill has lapsed so far pending the receipt of a reply from the Govt of India in regard to the Bill as it affects the existing arrangements in the State in regard to

and it has become necessary to reintroduce it in the Council

The Bible
by the Editor
1984

Extradition in case of _____ (Ch II)

1) Applies only to states with which there are arrangements, formed through the Residency.

2) a) Requisition for surrender.
   b) Govt to issue order for inquiry.
   c) Inquiry by Hqtr here.
   d) Report to Govt
   e) issue of warrant by Govt.

This follows the procedure prescribed for extradition in case of foreign states in the Cr. P.C.

## Extradition in case of Indian states (ch II)

1) Applies only to states with which mysore ~~has~~ makes arrangements, forms through the Residency.

2) a) Requisition for surrender.
   b) Govt to issue order for inquiry.
   c) Inquiry by Hqrs here
   d) Report to Govt
   e) issue of warrant by Govt.

This follows the procedure prescribed for extradition in case of foreign states in the Cr. P.C.

Extradition from Br India to Mysore
(Secs 7-8) (Ch III of F.E. Act — Applies only to extradition offences)

a) Preliminary Enquiry by Magistrate in Mysore & Subn of records to Govt

b) Requisition ~~for surrender~~ from Govt to the Residency for issue of warrant under Sec 7.

c) issue of warrant by Resident.

d) execution of this warrant in Br. India & Surrender.

Extradition from Mysore to Br India
(Secs 8–9) Ch III Ex. Bill. (applies only to Sch. B

a) Preliminary enquiry by Magte in Br India and submission of records to local Govt.

b) Requisition from local Govt to Govt of Mysore through the Residency for issue warrant.

c) issue of warrant by Govt

d) execution of this warrant in Mysore & surrender.

The only difference is that whereas in the case of extradition from British India the local Govt does not come in, in the case of extradition from Mysore it is the Govt of Mysore that has to act. This is because there is no corresponding officer of the Mysore Govt in Br. India corresponding to the Resident.

Extradition from Br India to Mysore
in non extraditable cases

Sec 9 Ch III 9 Ex Act

a) Enquiry by Mysore in Mysore & submn of records to Govt.

b) Requisition from Govt to the local Govt thro' the Residency.

c) order by local Govt for inquiry by mgte in Br. India.

d) Consideration of mgte's report & issue of warrant for surrender by the local govt.

e) Exec$^{n}$ of this warrant & surrender.

Extradition from mysore to Burma
in ~~Burma~~ = extraditable cases
Sec 10 of our Bill

a) Enquiry by Mgte in Br India & submn of records to local govt

b) Requisition from local govt to Govt of mysore thro Residency.

c) order by govt for inquiry by magistrate in mysore.

d) Consideration of mgte's report & issue of warrant for surrender by govt.

e) Exec$^{n}$ of this warrant & surrender.

# THE MYSORE LEGISLATIVE COUNCIL.

*JANUARY SESSION, 1938.*

## IV (Bills).

**10.** The Mysore Extradition Bill.

*Amendment to Clause 20.*

Insert the following as clause (*e*) and omit the word 'and' at the end of clause (*d*) and renumber the existing clause (*e*) as '*f*':—

"Prescribing the authorities of any Provincial Government in British India or a State in India whose requisition may be acted upon under this Act and"

MOVER.—*Rajamantrapravina* S. P. Rajagopalachari.
SECONDER.—Mr. M. Venkatesa Iyengar.

A. SUNDARARAJA RAO,
*Secretary,*
*Mysore Legislative Council.*

# THE MYSORE LEGISLATIVE COUNCIL.

*JANUARY SESSION, 1938.*

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SECONDER.—Mr. M. Venkatesa Iyengar.

A. SUNDARARAJA RAO,
*Secretary,*
*Mysore Legislative Council.*

WHEREAS it [redacted]edient to amend a consolidate the law relating to the extradition of criminals, it is hereby enacted as follows:--

## CHAPTER I.
## Preliminary.

1. (i) This Regulation may be called the Mysore Extradition Regulation, 19

(ii) It extends to the whole of Mysore.

(iii) It shall come into force ~~1st July 1934 (or~~ from such date as Government may, by notification in the official Gazette, direct.

2. In this Regulation, unless there anything repugnant in the subject or context, --

(a) "Extradition Offence" means any such offence as is described in First Schedule.

(b) "Offence" includes any act wheresoever committed which would, if committed in Mysore, constitute an offence.

(c) "rules" include prescribed forms

(d) "Fugitive Criminal" means any person accused or convicted of an extradition offence committed outside Mysore and who is or is suspected of being in some part of Mysore.

(e) "Prescribed" means prescribed by rules made under this Regulation.

CHAPTER II.

Surrender of fugitive criminals in case of ~~Native~~ States in India.-

3. Where an arrangement has been made with any ~~native~~ State in India with respect to the surrender to such State of any fugitive criminals, the Government may, ~~direct~~ by notification in the Official Gazette, direct that this Regulation shall apply in the case of such ~~native~~ State.

Every such notification shall recite or embody the terms of the arrangement and shall not remain in force for any longer period, than the arrangement.

4. Where this Regulation applies in the case of any ~~native~~ State, every fugitive criminal of that State who is in or suspected of being in any part of Mysore shall be liable to be apprehended and sur-

surrendered in manner provided by this Regulation, whether the ~~crime~~ offence in respect of which the surrender is sought was committed before or after the date of the notification, and whether there is or is not any concurrent jurisdiction in any court in Mysore over that offence.

5 (1) A requisition for the surrender of a fugitive criminal of any ~~native~~ State in India ~~to~~ in the case of which this Regulation applies, who is in or suspected of being in Mysore, shall be made to the Government through the British Resident in Mysore.

(2) Where such a requisition is made, the Government may, if it thinks fit, ~~issu~~ issue an order to any magistrate who would have had jurisdiction to inquire into the ~~crime~~ offence if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

(3) The magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily

ordinarily issue.

(4) When such criminal appears or is brought before the magistrate, the magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

(5) If the magistrate is of opinion that a prima facie case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of Government.

(6) If the magistrate is of opinion that a prima facie case is not made out in support of the requisition, or if the case is one which is bailable

under the provisions of the Code of Criminal Procedure for the time being in force, the magistrate may release the fugitive criminal on bail.

(7) The magistrate shall report the result of his inquiry to Government and shall forward, together with such report, any written statement, which the fugitive criminals may desire to submit for the consideration of Government.

(8) If the Government is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to the High Court and the fugitive criminal shall not be surrendered until such question has been decided.

(9) If upon receipt of such report and statement or upon the decision of any such question, the Government is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for ~~the~~ his delivery at a place and to a person to be named in the warrant.

(10) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (9) to receiv hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be retaken as a person accused of an offence against the law of Mysore may be retaken upon an escape.

(11) If such a warrant as is prescribed in sub-section (9) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (5) within two months after such committal, the High Court may upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

6 (1) Where it appears to any magistrate

magistrate of the 1st class or any magistra specially empowered by Government in this behalf, that a person within the local limi of his jurisdiction is a fugitive criminal of a native State in India to which this Registration applies, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would in his opinio justify the issue of a warrant if the crime of which he is accused or has been convicte had been committed within the local limits of his jurisdiction.

(2) The magistrate shall forthwith report the issue of a warrant under this Section to the Government.

(3) A person arrested on a warrant issued under this Section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under Section (5) sub-section (2).

(4) In the case of a person arrested or detained under this Section the provisic of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such p were accused of committing in Mysore, the

magistrate of the 1st class or any magistrat specially empowered by Government in this behalf, that a person within the local limit of his jurisdiction is a fugitive criminal of a ~~native~~ State in India ~~to~~ which this Regulation applies, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would in his opinio justify the issue of a warrant if the crime of which he is accused or has been convicte had been committed within the local limits of his jurisdiction.

(2) The magistrate shall forthwith report the issue of a warrant under this Section to the Government.

(3) A person arrested on a warrant issued under this Section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under Section (5) sub-section (2).

(4) In the case of a person arrested or detained under this Section the provisio of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore, the

*8 (1). Where an extradition offence has been committed or is supposed to have been committed by a person in British India and when such ¢ person escapes into or is in Mysore, the Government may, on receipt of a requisition through the British Resident in Mysore for the surrender of the said person, direct the issue of a warrant addressed to the ~~Deputy Commissioner~~ District Magistrate of any district in which such ¢ person is believed to be for his arrest, and delivery at a place and to a person or authority indicated in the warrant, and such Magistrate shall act in pursuance of such a warrant and may give directions accordingly.*

CHAPTERxIIIx

the ~~crime~~ offence of which he is accused or has been convicted.

7. The Government may at any time stay any proceedings taken under this chapter and direct any warrant issued under this chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

8. Notwithstanding anything contained in section 5 the requisitions for surrender of fugitive criminals of any ~~native~~ State in India duly notified in this behalf may be dealt with so far as may be in accordance with the procedure prescribed in section 9.

## CHAPTER III.

## SURRENDER OF ~~FUGITIVE~~ CRIMINALS IN CASE OF BRITISH INDIA.

9 (1) Where an extradition offence has been committed or is supposed to have been committed by a person in British India and such person escapes into or is in Mysore, and the Government ~~shall~~, ~~on the receipt of a requisition for the surrender of the said person~~ issue a warrant addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant ~~and~~ such magistrate shall act in pursuance of such warrant and may give directions accordingly.

(2) A warrant issued as mentioned in Sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall be produced before the District Magistrate who shall record any - - ~~xkxxkxxx~~ statement made by him; such accused person shall then, unless released in accordance with the provisions of this Regulation be forwarded to the place and delivered to the person or authority indicated in the warrant.

(3) The provisions of the Code of Criminal - Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall with any necessary modifications apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

10 (1) Where ~~the Government has directed by~~ an endorsement has been made on any such warrant that the person for whose arrest it is issued may be released on - executing a bond with sufficient sureties for hi attendance before a person or authority indicate in this behalf in the warrant at a specified tim and place, the Magistrate to whom the warrant is addressed shall on such security being given - release such person from custody.

(2) When security is taken under this sectio the Magistrate shall certify the fact to the -

11. Where a requisition is made to the Government by or on behalf of any Local Government in British India through the British Resident in Mysore for the surrender of any person accused of having committed an offence other than ex tradition offence in British India, such requisition shall ( except in so far as it relates to the taking of evidence to show that the offence is of a political character or is not an extradition offence) be dealt with so far as may be in accordance with the procedure prescribed in section 5.

Government ~~who xx issued the warrant~~ and shall retain the bond.

(3) If the person bound by any such bond does not appear at the time and place specified the Magistrate may, on being satisfied as to his default issue a warrant directing that he be rearrested and handed over to any person authorised by the Government to take him into custody.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by this Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of - - sureties.

10. Where a requisition is made to the Government for the surrender of any person accused of having committed an offence other than an extradition offence in British India, such requisition shall (except in so far as it relates to the taking of evidence to show that the offence is of a political character or is not an extradition ~~crime~~ offence) be dealt with so far as may be, in accordance with the procedure prescribed by section 5,

Provided that in cases in which the British Resident in Mysore or some other officer authorised by him in this behalf demands the arrest and - - surrender of any person within Mysore under Article 15 of the Mysore Treaty ~~accused of having committed an offence in British India~~, it

shall be lawful for Government to deal with the demand as if it were a requisition under section 9.

12. If it appears to any Magistrate of the First Class or any Magistrate empowered by Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in British India and that such person may lawfully be surrendered or that a warrant may be issued for his arrest under Section 8 ~~or 10~~, the Magistrate, may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would in his opinion ~~xxxxxxx~~ justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

(2) The Magistrate shall forthwith report to Government through The St. Marks the issue of a warrant under this Section.

(3) A person arrested on a warrant issued under this Section shall not, without the special sanction of the Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with Section 10 or a warrant for the arrest of such person under Section 8 ~~or 10~~ is received.

(4) In the case of a person, arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence with which he is charged.

13. (1) A person accused of an offence committed in Mysore, not being the offence for which his surrender is asked or undergoing sentence under any conviction in Mysore shall not be surrendered except on the condition that such person be resurrendered to the Government on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in Mysore his sentence shall be deemed to be suspended until the date of his resurrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

14. The provisions of this chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in British India has escaped into or is in Mysore before his sentence has expired.

15. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed for the purposes of this chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

16. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place -- named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re-taken upon an escape.

17. The Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for ~~which~~ whose arrest such warrant has been issued to be discharged.

18. The provisions of this Chapter shall apply to an offence ~~or to an extradition offence, as the case may be, committed before the passing of this Regulation~~ committed before the passing of this Regulation, and to an offence in respect of which a Court of Mysore has concurrent jurisdiction.

19. In any proceedings under this ~~Chapter~~ Regulation, -- exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates

(Sec 15 IEA)

15. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed for the purposes of this chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

(Sec 16 IEA)

16. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place -- named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re-taken upon an escape.

Sec 15 IEA)

17. The Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, id the person for ~~which~~ whose arrest such warrant has been ;sued to be discharged.

ec 16 IEA)

18. The provisions of this Chapter shall appl to an offence ~~or to an extradition offence, as the case may be, committed before the passing of this Regulation~~ committed before the passing of this Regulation, and to an offence in respect of which a Court of Mysore has concurrent jurisdiction.

17(1) IEA)

Chapter IV

Miscellaneous

19. In any proceedings under this ~~Chapter~~ Regulation, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates

20. The testimony of any witness may be obtained in relation to any criminal matter pending in any State in India in a like manner as it may be obtained in any civil matter under the provisions of the ~~Act~~ Code of Civil Procedure for the time being in force with respect to commissions and the provisions of that ~~Court~~ Code relating thereto shall be ~~xxxxxxxxxx~~ construed as if the term " suit " included criminal proceding.

of facts and judicial documents stating facts, may, in the prescribed manner be authenticated, be received as evidence.

20. Nothing in this Regulation shall derogate from the provisions of any treaty or arrangement for the extradition of offenders and the procedure provided by any such treaty or arrangement shall be followed in any case to which it applies and the provisions of this Regulation shall be modified accordingly.

CHAPTER VIII

21. (1) The Government may make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the removal of prisoners accused or in custody under this Regulation, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them;

(b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Regulation applies;

(c) the pursuit and arrest in Mysore, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Gazette of Mysore and shall thereupon have effect as if enacted by this Regulation.

22. Notwithstanding anything in the Code of Criminal Procedure, 1904, any person arrested without an

23(2) All orders made and acts done under any of the notifications hereby repealed in respect of requisitions received before the coming into force of this Regulation shall have the same force and effect as if they had been made or done under this Regulation.

24. Nothing contained in this Regulation shall affect the right of the Government to deal in such manner as it thinks fit ~~that~~ with the cases in which the British Resident in Mysore or some other officer authorised by him demands the arrest and surrender of any person ~~who~~ within Mysore under Article 15 of the Mysore Treaty.

order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section ~~11~~ 12.

23. (1) On and from the date this Regulation comes into force the Chief Commissioner's Notification No. ~~III~~x111, dated 23rd July 1878 and Government Notification No. J. 219/Legis. 14-04-14, dated the 20th July 1907 in so far as ~~it is~~ they are inconsistent with the provisions of this Regulation shall be deemed to be repealed –

~~25~~ Nothing contained in this Regulation, shall affect or be deemed to have affected the prerogative rights of His Highness the Maharaja to direct – – independently of this Regulation the extradition of any ~~foreign~~ criminals found in Mysore, which right is hereby declared to be and to have been always possessed and retained by His Highness.

Ce 26/7/34

M. Maraha 23/2/34

## THE FIRST SCHEDULE

### Extradition offences.

(The sections referred to are the sections of the Indian Penal Code).

Frauds upon creditors (section 206)

Resistance to arrest (section 224)

Offences relating to coin and stamps (sections 230 to 263A)

Attempt to murder (section 307)

Culpable homicide (sections 299 to 304)

~~xxx~~ Thagi (sections 310, 311)

Causing miscarriage and abandonment of child (sections 312 to 317)

Causing hurt (sections 323 to 333)

Wrongful confinement (sections 347, 348)

Kidnapping and slavery (sections 360 to 373)

Rape and unnatural offences (sections 375 to 377

Theft, extortion, robbery, etc., (sections 378 to 414 )

Cheating (sections 415 to 20)

Fraudulent deeds, etc (sections 421 to 424)

Mischief (sections 425 to 440)

Lurking house-trespass (sections 443, [444] )*

Forgery, using forged documents, etc (sections 46 to 477 A)

Desertion from the Army

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board ship on the high seas, ~~xx~~ with ~~xxxxxxxxxx~~ intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas again the authority of the master.

An offences against the laws relating to criminal tribes or against any other law which may, fro time to time, be specified by the Government by notification in the Official Gazette either generally (for all States or) for British India or for any one or more States.

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* These figures were substituted for the figures "446" by section 2 and schedule 1 of the Repealing and Amending Act, 1914 (x of 1914)

# THE MYSORE EXTRADITION BILL.

## Statement of Objects and Reasons.

The procedure for extradition and surrender of fugitive criminals in Mysore ~~to other States~~ in India is at present governed ~~by the reciprocal arrangements entered into with the States~~ concerned. Such Arrangements ~~for this purpose~~ have been entered into with some of the States such as Hyderabad, Cochin, Pudukottah, Travancore, Sandur, Banganapalli, etc. ~~Such arrangements~~ have not been implemented by legislation. This practice of surrendering fugitives to other States with which reciprocal arrangements have been entered into seems to have no legal basis and rests mainly on executive action. It has been considered desirable ~~to provide suitable legislation to give effect to such arrangements with other States~~.

The present procedure in regard to extradition of fugitive criminals ~~from the Mysore State~~ to British India is governed by the Chief Commissioner's Notification No. III dated 23rd July 1878 which is included in the Schedule to the Mysore Treaty. ~~It~~ This is ~~very~~ summary in its nature. According to it, whenever a warrant is issued by a British Indian Magistrate for the arrest and surrender of a fugitive criminal who ~~is or is suspected to have committed an offence in British India and escaped into Mysore~~, it has to be acted upon by the Mysore magistrate and the fugitive surrendered

~~Whatever the nature of the offence be, the process has to be executed in Mysore.~~ Neither the magistrate nor ~~this~~ to Government has any discretion. The offence for which a warrant could be issued under this Notification need not be an offence under the law in Mysore nor need it necessarily be what is generally known as " an extradition offence". Offences which have been brought into the penal laws of British India recently and which could ~~xxx~~ never have been contemplated when the Chief Commissioner's Notification was issued are sought to be brought under it. Warrants ~~are~~ issued by British Indian magistrates for ~~even~~ fiscal offences or ~~more~~ trivial offences ~~which~~ are ~~more or less~~ of a civil nature, such as failure to pay tax due on a motor vehicle, defamation, etc. ~~Even non-~~ bailable warrants are received in respect of such offences and the local magistrates are left no discretion to release the offender on bail. Further no papers are sent to the local magistrates indicating a prima facie case against the accused. On the other hand, extradition of fugitive offenders from British India to Mysore is governed by the Indian Extradion Act of 1913. According to it, a requisition is to be made to the British Resident ~~giving~~ particulars of the offence, whereabouts of the accused and the records of the criminal enquiry held by the Mysore Magistrate making out a prima facie case against the accused. The Resident after satisfying himself that a prima facie case has been made out, issues a warrant for the arrest of the accused. The Resident ~~should~~

should also satisfy himself that the surrendered accused receives a fair trial and the punishment is not excessive or barbarous. If he is not so satisfied, he shall demand restoration of the prisoner to his custody. The most important distinction is that extradition is allowed only in respect of very few offences specified in the Schedule to the Act.

Thus, under the existing arrangement between Mysore and British India, there is no reciprocity or equality of status either in regard to the classes of cases in respect of which surrender of criminals can be obtained or the procedure for such surrender. It would seem that the Chief Commissioner's Notification is not restricted to personal warrants merely. All warrants such as for the levy of fine, attachment of property, warrants against witnesses for their appearance and production of documents, seem to come under it. There is no corresponding arrangement for the execution of such warrants from Mysore in British India. To implement the present arrangements by a legal provision and also to remove the anomalies and indonveniences existing in the present procedure, this Bill has been designed.

The Bill is modelled on the lines of the Indian Extradion Act, XV of 1903 and deals with extradition between

(1) Mysore and British India and
(2) Mysore and other States in India.

The Bill provides mainly for extradition in respect of offences which are known as extradition offences. These are enumerated in Schedule I which follows closely the Indian Act.

Chapter II deals with the surrender of criminals in the case of ~~other~~ The States in India. The provisions will apply only in the case of such States between which and Mysore there are reciprocal arrangements. For the application of the Regulation, the Government will have to issue a notification in this behalf reciting the terms of the arrangement.

The main features of the procedure for extradition in such cases are :

(a) a requisition has to be made by the ~~other~~ State through the Residency;

(b) Government have to direct an enquiry by a magistrate;

(c) the Magistrate has to issue process, hold an enquiry and find whether a prima facie case is made out. In such enquiry, depositions etc taken in the courts of the State requiring surrender may be received in evidence.

(d) the Magistrate after enquiry has to make a report;

(e) the Government may then issue a warrant for the surrender of the fugitive criminal.

Power is reserved to Government ~~may also issue a warrant~~ where it disagrees with the finding of the magistrate to issue a warrant ~~Power is also given to the~~ Government may adopt in respect of such States as may be notified by them the less elaborate procedure prescribed in Chapter III in respect of British Indian.

Chapter III deals with surrender of criminals in the case of British India. The procedure prescribed herein follows closely the procedure under the Indian Act for extradition of fugitive criminals from British India to Mysore. In the case of extradition offences which are enumerated in the Schedule, the Government will, on receipt of a requisition therefor, issue to the District Magistrate of the District concerned a warrant for the arrest of the fugitive criminal. The District Magistrate will have to arrest such person and release him on bail if so directed by the warrant or deliver him to the personal or authority indicated in the warrant. The enquiry by the Magistrate which is required under section 5 is dispensed with in this procedure.

Provision is also made for extradition to British India in respect of offences other than extradition offences. Requisitions in such cases will be dealt with in accordance with the procedure prescribed in Chapter II. After enquiry by a Magistrate the Government may in their discretion allow extradition in respect of such offences. Provision is also made for due fulfilment of the obligations under Article 15 of the Mysore Treaty. Local magistrates are empowered to arrest persons who are accused or suspected of having committed an extradition offence in British India or the State to which this Regulation applies pending the receipt of a requisition and the issue of a warrant for his arrest by the Government.

Provision is made for the surrender of persons undergoing sentence for offences in Mysore. Government is empowered to ~~set~~ stay extradition proceedings ~~in motion~~ and discharge persons in custody. The provisions of treaties and arrangements with the other States are saved. The prerogative right of His Highness to direc the extradition of any criminal in Mysore is declared and preserved. The Chief Commissioner's Notification No. ~~12~~ 3 dated 23rd July 1878 and the Government Notificatio No.J 219/Legis. 1404-40 dated 20th July 1907 are repealed.

OFFICE OF THE SECRETARY, MYSORE LEGISLATIVE COUNCIL, PUBLIC OFFICES.

NOTIFICATION.

*No. 5436—L. C., Bangalore, dated 29th May 1934.*

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore Extradition Bill is published for general information with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,
*Secretary,*
*Mysore Legislative Council.*

## MYSORE EXTRADITION BILL.

Whereas it is expedient to amend and consolidate the law relating to the extradition and rendition of criminals; It is hereby enacted as follows:—

### CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (i) This Regulation may be called the Mysore Extradition Regulation, 1934.

(ii) It extends to the whole of Mysore.

(iii) It shall come into force from such date as the Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,

(*a*) "Extradition Offence" means any such offence as is described in the Schedule.

(*b*) "Offence" includes any act wheresoever committed which would, if committed in Mysore, constitute an offence.

(*c*) "Rules" include prescribed forms.

(*d*) "Fugitive Criminal" means any person accused or convicted of an extradition offence committed outside Mysore and who is or is suspected of being in some part of Mysore.

(*e*) "Prescribed" means prescribed by rules made under this Regulation.

## CHAPTER I.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES IN INDIA.

Application of Regulation.

3. Where an arrangement has been made with any State in India with respect to the surrender to such State of any fugitive criminals, the Government may, by notification in the *Official Gazette*, direct that this Regulation shall apply in the case of such State.

Every such notification shall recite or embody the terms of the arrangement and shall not remain in force for any longer period than the arrangement.

Apprehension of fugitives

4. Where this Regulation applies in the case of any State, every fugitive criminal of that State who is in or is suspected of being in any part of Mysore shall be liable to be apprehended and surrendered in manner provided by this Regulation, whether the offence in respect of which the surrender is sought was committed before or after the date of the notification, and whether there is or is not any concurrent jurisdiction in any court in Mysore over that offence.

Inquiry.

5. (1) Where a requisition is made to the Government by or on behalf of the Government of any State in India in the case of which this Regulation applies for the surrender of a fugitive criminal of such State, who is in or is suspected of being in Mysore, the Government may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into

the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of Government.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

(6) The Magistrate shall report the result of his inquiry to Government and shall forward, together with such report, any written statement, which the fugitive criminal may desire to submit for the consideration of Government.

(7) If the Government is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to the High Court and the fugitive criminal shall not be surrendered until such question has been decided.

(8) If upon receipt of such report and statement or upon the decision of any such question, the Government is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8) to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re-taken upon an escape.

(10) If such a warrant as is prescribed in sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison

under sub-section (4) within two months after such committal, the High Court may upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government, order such criminal to be discharged unless sufficient cause is shown to the contrary.

Magistrate to issue warrant of arrest in certain cases.

6. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by Government in this behalf, that a person within the local limits of his jurisdiction is a fugitive criminal of a State in India in the case of which this Regulation applies, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would in his opinion justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Government.

Person arrested not to be detained unless order received.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under sub-section (2) of section 5.

Bail.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence of which he is accused or has been convicted.

Power of Government to discharge any person in custody at any time.

7. The Government may at any time stay any proceedings taken under this chapter and direct any warrant issued under this chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

## CHAPTER III.

### SURRENDER OF CRIMINALS IN CASE OF BRITISH INDIA.

Issue of warrant by Government in certain cases.

8. (1) Where an extradition offence has been committed or is supposed to have been committed by a person in British India and when such person escapes into or is

in Mysore, the Government may, on receipt of a requisition made by or on behalf of any Local Government in British India for the surrender of the said person, direct the issue of a warrant addressed to the District Magistrate of any district in which such person is believed to be, for his arrest, and delivery at a place and to a person or authority indicated in the warrant, and such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall be produced before the District Magistrate who shall record any statement made by him; such accused person shall then, unless released in accordance with the provisions of this Regulation, be forwarded to the place and delivered to the person or authority indicated in the warrant.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall with any necessary modifications apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

9. (1) Where an endorsement has been made on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Government and shall retain the bond.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be rearrested and handed over to any person authorised by the Government to take him into custody.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred

by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisition for surrender.

10. Where a requisition is made to the Government by or on behalf of any Local Government in British India for the surrender of any person accused of having committed in British India an offence other than an extradition offence, such requisition shall (except in so far as it relates to the taking of evidence to show that the offence is of a political character or is not an extradition offence) be dealt with so far as may be in accordance with the procedure prescribed in section 5.

Issue of warrants for arrest.

11. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in British India and that such person may lawfully be surrendered or that a warrant may be issued for his arrest under section 8, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

(2) The Magistrate shall forthwith report to Government through the District Magistrate the issue of a warrant under this section.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with section 10 or a warrant for the arrest of such person under section 8 is issued.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence with which he is charged.

Surrender of prisioners.

12. (1) A person accused of an offence committed in Mysore, not being the offence for which his surrender is asked or undergoing sentence under any conviction in

Mysore shall not be surrendered except on the condition that such person be resurrendered to the Government on the termination of his trial for the offence for which his surrender has been asked.

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to persons convicted in British India.

13. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in British India, has escaped into or is in Mysore before his sentence has expired.

Abetment and attempt.

14. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Escape from custody.

15. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re-taken upon an escape.

Stay of Proceedings.

16. The Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter.

17. The provisions of this Chapter shall apply to an offence committed before the passing of this Regulation and to an offence in respect of which a Court of Mysore has concurrent jurisdiction

## CHAPTER IV.

### MISCELLANEOUS.

Receipt of exhibits and depositions as evidence.

18. In any proceedings under this Regulation, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if authenticated in the prescribed manner, be received as evidence.

Evidence by commission.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any State in India in a like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions and the provisions of that Code relating thereto shall be construed as if the term "suit" included criminal proceeding.

Power to make rules.

20. (1) The Government may make rules to carry out the purposes of this Regulation;

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,

(*a*) the removal of prisoners, accused or in custody under this Regulation, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them;

(*b*) the seizure and dispossession of any property which is the subject of, or required for proof of, any alleged offence to which this Regulation applies;

(*c*) the pursuit and arrest in Mysore, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere;

(*d*) the procedure and practice to be observed in extradition proceedings;

(*e*) prescribing the authorities of any Local Government in British India or a State in India whose requisitions may be acted upon under this Regulation; and

(*f*) the manner of authenticating documents.

(3) Rules made under this section shall be published in the *Official Gazette* and shall thereupon have effect as if enacted by this Regulation.

21. Notwithstanding anything in the Code of Criminal Procedure, 1904, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 11. Detection of persons arrested.

22. (1) On and from the date this Regulation comes into force the Chief Commissioner's Notification No. III dated 23rd July 1878 and Government Notification No. J. 219—Legis. 14-04-14 dated the 20th July 1907 in so far as they are inconsistent with the provisions of this Regulation shall be deemed to be repealed. Repeal.

(2) All orders made and acts done under any of the notifications hereby repealed in respect of requisitions received before the coming into force of this Regulation shall have the same force and effect as if they had been made or done under this Regulation.

23. Nothing contained in this Regulation shall affect or be deemed to have affected the prerogative right of His Highness the Maharaja to direct independently of this Regulation the extradition and surrender of any criminal found in Mysore, which right is hereby declared to be and to have been always possessed and retained by His Highness. Prerogative right of His Highness the Maharaja to direct extradition.

## THE SCHEDULE.

### Extradition Offences.

(*The sections referred to are the sections of the Indian Penal Code*).

'auds upon creditors (Section 206).
Resistance to arrest (Section 224).
Offences relating to coin and stamps (Sections 230 to 263A).
Culpable homicide (Sections 299 to 301).
Attempt to murder (Section 307).
Thagi (Sections 310, 311).
Causing miscarriage and abandonment of child (Sections 312 to 317).

Causing hurt (Sections 323 to 333).
Wrongful confinement (Sections 347, 348).
Kidnapping and slavery (Sections 360 to 373).
Rape and unnatural offences (Sections 375 to 377).
Theft, extortion, robbery, etc., (Sections 378 to 414).
Cheating (Sections 415 to 420).
Fradulent deeds, etc., (Sections 421 to 424).
Mischief (Sections 425 to 440).
Lurking house-trespass (Sections 443, 444).
Forgery, using forged documents, etc., (Sections 463 to 477A).
Desertion from the Army.
Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offences against the laws relating to criminal tribes or against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Government by notification in the *Official Gazette* either generally for British India and for all States or specially for British India or for any one or more States.

## Statement of Objects and Reasons.

For the extradition and surrender of fugitive criminals, Mysore has entered into reciprocal arrangements with some States such as Hyderabad, Cochin, Puddukotah, Travancore, Sandur, Banganpalli, etc., but the procedure for giving effect to such arrangements rests mainly on executive action and has no statutory basis.

So far as the extradition of fugitive criminals to British India is concerned, the present procedure is the one prescribed by the Chief Commissioner's Notification No. 111, dated 23rd July 1878. According to it, whenever a warrant is issued by a British Indian Magistrate for the surrender of a fugitive criminal, it has to be acted upon by the Mysore Magistrate as if it were a warrant issued by himself and the fugitive surrendered. The offence for

which a warrant can be issued under this notification need not be an offence under the law in Mysore; nor again need it necessarily be what is generally known as an "extradition offence."

Under the Indian Extradition Act of 1903, extradition is allowed only in respect of some few offences specified in the Schedule to the Act. According to it, a requisition has to be made to the British Resident together with the particulars of the offence, the whereabouts of the accused and the records of the enquiry held by the Mysore Magistrate disclosing a *prima facie* case against the accused. The Resident, after satisfying himself that there is a *prima facie* case against the accused person issues a warrant for the arrest of the accused. The Resident also satisfies himself that the surrendered accused receives a fair trial and the punishment is not excessive or barbarous.

Though the intention when the Chief Commissioner's Notification of 1878 was issued appears to have been to limit its operation to extradition offences, in practice, all offences and even offences of a purely fiscal nature such as failure to pay taxes due on a motor vehicle, offences more or less of a civil nature such as defamation and acts which have been penalised recently and which could not have been contemplated as offences when the Chief Commissioner's Notification was issued, have, in course of time, been brought under it.

The general principle underlying extradition between States is that each State should surrender in response to the demands of others, all persons charged with crimes which are recognised by the general conscience of civilised nations as grave offences.

The existing law and procedure in respect of the surrender of fugitive criminals to British India have been examined in detail in the recent judgment of the Full Bench of the High Court of Mysore in Criminal Revision Petition No. 192 of 1932-33. In that case, it has been held that the Chief Commissioner's Notification of 1878 has the force of law in Mysore, but that the British Indian Magistrate was not legally competent to issue a warrant for execution outside the limits of British India, and that his warrant for execution in Mysore was illegal and without jurisdiction. In the case under reference, the offence was not one classed as extraditable under the law in force in British India, but the grounds for the decision

about the illegality of the British Indian Magistrate's warrant seems to be of general application. In view of this decision, it appears that doubts are liable to be raised in regard to the surrender of fugitive criminals under the Chief Commissioner's Notification even in extradition cases.

It has therefore been considered desirable and necessary to place on a statutory basis the procedure adopted for the surrender and extradition of criminals from Mysore to other States and British India. This Bill is intended to give effect to this and also to remove the anomalies and inconveniences existing in the present procedure.

The Bill is modelled on the lines of the Indian Extradition Act, XV of 1903, and deals with extradition between—

1. Mysore and British India, and
2. Mysore and other States in India.

The Bill provides mainly for extradition in respect of offences which are known as extradition offences. These are enumerated in the Schedule which follows closely the Indian Act.

Chapter II deals with the surrender of criminals in the case of the States in India. The provisions will apply only in the case of such States between which and Mysore, there are arrangements for extradition. For the application of the Regulation, the Government will have to issue a notification in this behalf reciting the terms of the arrangement.

The main features of the procedure for extradition in such cases are :—

(*a*) a requisition has to be made by the State asking for the extradition of a fugitive ;

(*b*) Government have to direct an enquiry by a Magistrate ;

(*c*) the Magistrate has to issue process, hold an enquiry and find out whether a *prima facie* case is made out ;

(*d*) the Magistrate after enquiry has to make a report ;

(*e*) the Government may then issue a warrant for the surrender of the fugitive criminal.

Chapter III deals with surrender of criminals in the case of British India and the procedure prescribed herein

follows closely the procedure under the Indian Act for extradition of fugitive criminals from British India to Mysore. In view of the existing arrangements between Mysore and British India, the enquiry by a Magistrate contemplated in Chapter II is dispensed with in the case of extradition offences which are enumerated in the Schedule. The Government may, on receipt of a requisition therefor and on being satisfied that there is a *prima facie* case against the fugitive criminal, direct the issue of a warrant to the District Magistrate of the District concerned for his arrest. The District Magistrate will have to arrest such person and release him on bail if so directed by the warrant, or deliver him to the person or authority indicated in the warrant.

Provision is also made for extradition to British India in respect of offences other than extradition offences. Requisitions in such cases will be dealt with in accordance with the procedure prescribed in Chapter II. After enquiry by a Magistrate, the Government may permit extradition in respect of such offences also.

Local Magistrates are empowered to arrest persons who are accused or suspected of having committed an extradition offence in British India or the State to which this Regulation applies pending the receipt of a requisition or the issue of a warrant for his arrest by the Government. Provision is made for the resurrender of persons undergoing sentence for offences in Mysore. The prerogative right of His Highness to direct the extradition of any criminal in Mysore is declared and preserved and this will enable the performance of obligations under Art. 15 of the Mysore Treaty.

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inted by the Superintendent at the Government Press, Bangalore.

WD 1892—GBPM—11-13—22-6-34.

# REPORT OF THE SELECT COMMITTEE ON THE MYSORE EXTRADITION BILL.

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We, the undersigned Members of the Select Committee to which the Mysore Extradition Bill was referred, have considered the Bill and have now the honour to submit this our report, with the Bill as amended by us annexed hereto.

The following are the main amendments which we have made in the Bill:--

(1) Substitute the word "offence" for the word "crime" in the places where it occurs in clause 5 (3) and clause 6 (1).

(2) In clause 17, add the words "or to an extraditi offence, as the case may be" after the words "shall apply t an offence."

(3) In sub clause (2) of clause 20, omit item (e and renumber the other items.

(4) In clause 22 (1), omit the words "in so far they are inconsistent with the provisions of this Regu We consider that the two notifications may be repealed entirely, other provisions may be made separately for summons etc.

(5) In clause 23, omit the words "which righ .....His Highness".
We consider these words are superfluous.

The other amendments are purely ver We do not consider it necessary to explain

I have recommended two points for further consideration: (1) the position of those accused of political offences of a political character and (2) Clause 23.

Mohammad Ab
M R Ry C. Rayavada

## NOTIFICATION.

*No. Rl. 98—L. C. 1-34-2, Bangalore, dated 28th September 1934.*

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Mysore Extradition Bill is published for general information.

By Order,
C. SUBRAHMANYA AIYAR,
*Secretary, Mysore Legislative Council.*

## Report of the Select Committee on the Mysore Extradition Bill.

We, the undermentioned members of the Select Committee to which the Mysore Extradition Bill was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us, annexed hereto.

The following are the main amendments which we have made in the Bill :—

1. Substitute the word "offence" for the word "crime" in the places where it occurs in clause 5 (3) and clause 6 (1).
2. In clause 17, add the words "or to an extradition offence, as the case may be" after the words "shall apply to an offence."
3. In sub-clause (2) of clause 20, omit item (*e*) and re-number the other items.
4. In clause 22 (1), omit the words "in so far as they are inconsistent with the provisions of this Regulation."

   We consider that the two notifications may be repealed entirely and other provisions may be made separately for foreign summonses, etc.
5. In clause 23, omit the words "which right is hereby declared to be and to have been always possessed and retained by His Highness." We consider these words are superfluous.

The other amendments are purely verbal. We do not consider it necessary to republish the Bill.

BANGALORE,
*24th September 1934.*

K. MATTHAN (Chairman).
K. R. SRINIVASA IYENGAR.
MOHAMED ABBAS KHAN.
C. HAYAVADANA RAO.
H. C. DASAPPA.
K. V. ANANTARAMAN.
A. R. NAGESVARA IYER.
N. MADHAVA RAO
D. V. GUNDAPPA.

* I have reserved two points for further consideration : (1) the position of the accused of offences of a political character and (2) clause 23.

Printed by the Superintendent at the Government Press, Bangalore

ill :-

A Bill to be put by the Hon'ble Sir N. N. Sircar on 23/3/36 at Delhi
K.K.V.
8/3.

The procedure for the extradition and surrender of fugitive offenders from Mysore to British India is based on an old Notification issued by the Chief Commissioner of Mysore as far back as 1878 when the State was adminst ered by a Commission of British Officers. Later when the adminstration of the country was assumed by the Maha raja of Mysore in 1881, all the enactments and rules ~~xxx~~ including this Notification, which were inforce during the time of the British Administration, were continued and declared by a proclamation of the Maharja to have the force of law. According to the terms of the Notification a warrant issued by a Magistrate of British India for the arrest and apprehension of an offender, who has fled from British India to Mysore, has to be acted upon and executed by the Magistrates and Police Officers in Mysore under the same conditions and in the same manner as a warrant issued by a Magistrate having Jurisdiction in Mysore.

The procedure was followed regularly without any modification for a period of nearly fifty five years from 1878 to 1933. Offenders from British India who had sought an asylum in Mysore were arrested and delivered by the Mysore authorities on the strength of the warrant issued by British Indian Magistrates. These warrants were automatically executed in Mysore in the same manner as in any other part of British India. No differentiation whatsoever was made between extraditable and non-extraditable offences, nor was there any need to make out a prima facie case of guilt against the accused person before a Mysore Magistrate.

In 1933, however, the legality of these warrants was challenged before the High Court of Mysore in a

case in which a bailable warrant had been issued by the Sub-Magistrate of Thirupathi (in British India) against a person accused of an offence under the Motor Vehicles Act. It was contended that the warrant was not valid, as the Criminal Procedure Code in force in British India contained no provision authorising the Magistrate to issue warrant for execution outside the limits of British India. This contention was upheld by a Full Bench of the High Court and it was held that a British Indian Magistrate was not legally competent to issue a warrant capable of being executed in Mysore.

This decision has made it necessary to amend the present procedure, as it is not possible henceforward to execute the warrants issued by British Indian Magistrates as before. A comprehensive Bill known as the Mysore Extradition Bill, modelled on the lines of the Indian Extradition Act of 1903, was therefore placed before the Mysore Legislative Council in June 1934 with a view to placing the law of extradition in Mysore on a better and more satisfactory basis. But before the Bill passed thro its third reading, the Government of Mysore were informe by the Residency that the Government of India had telegraphed to the effect that the Bill required the previou sanction of the Governor-General in Council, though as a matter of fact no such sanction is necessary under the provisions of the Mysore Treaty. The restrictions placed on the legislative powers of Mysore in 1881 at the time of the Rendition had been formally withdrawn in 1933, si months before the Bill was placed before the Legislative Council, and the State was fully competent to pass the Bill into law without any reference to the Government of India. The Government of Mysore, however, in deference to the wishes of the Government of India have postponed the final reading of the Bill.

The Government of India themselves do not seem to be sure of the reasons which have led them to take the view that the Bill requires the previous sanction of the Governor-General in Council. In the letter from the Residency, communicating their views to the Government of Mysore, it is stated that "the provisions of Chapter II and III of the Bill to some extent affect Articles 10 and 15 of the (Mysore) Treaty".

Chapter II of the Bill regulates the procedure for the extradition of fuvitive offenders from Mysore to the other Indian States. The objection of the Government of India to this Chapter seems to be that it affects the obligation laid on Mysore by Article 10 of the Treaty not to hold any communication or correspondence with other States except with the previous sanction and through the medium of the Governor-General in Council. It is not proposed when the Bill is passed into law to enter into extraditional agreements directly with any Indian State. Such agreements will, as at present, be concluded with the approval of the Governor-General. As a matter of fact extraditional arrangements with other States exist even to-day, and the necessary correspondence in such cases is conducted through the Resident in Mysore and Political Agents of the other States. The procedure for giving effect to these arrangements rests at present mainly on executive action and has no statutory basis. Chapter II of the Bill seeks to regularise the existing practice by giving them a statutory sanction and does not profess to extend the powers of Mysore to enter into direct negotiations with any other Indian State.

As regards Chapter III, which deals with the surrender of fugitive offenders from Mysore to British India, it is said that it affects Article 15 of the Treaty which

requires that demands made by the Resident in Mysore for the arrest and surrender of any person accused of having committed an offence in British India should be complied with. Here again there does not seem to be much ground for the apprehension that such cases would not be complied with when the Bill becomes Law. Special provision has been made under the Bill for meeting such cases, and clause 23 of it preserves the prerogative of the Maharaja to direct the extraditon and surrender of any criminal found in Mysore. This provision enables the Government of Mysore to perform the obligations laid on them by Article 15 of the Treaty, and this has specially been made clear in the Statement of objects and Reasons attached to the Bill.

It is evident, therefore, that the Bill does not stand in need of the previous sanction of the Governor-General in Council, nor do any of its provision prejudice the performance by Mysore of any of its Treaty obligations. Its passage into law is imperative and urgent in the interest of both Mysore and British India. Otherwise it is impossible for the Mysore authorities to surrender offenders from British India who may take their asylum in Mysore.

HIGH COURT OF MYSORE

BANGALORE

Dated 26 March 1936

Dear Mr. Subrahmanya Iyer

You sent me the Extradition Bill, which you gave me this afternoon, appears to me an excellent one.

It is not for me to discuss the opinion of the Full Bench in C.R.P. 192 of 1932-33. But, as a matter of fact, the fact that the Govt. of India do not like that opinion is enough to show why legislation should not be undertaken. The opinion of the Full Bench is binding on the Courts of the State, legislation is now required. I notice that the Govt of India do not offer any criticism on the provisions of the Bill. I have not examined the wording of the Bill minutely — and I do not suppose that is expected of me. But I may say that the

provisions of the Bill appear to me to violate + to contain nothing to which the Govt. of India can reasonably object. They appear to me that the provisions, if enacted, will work in practice in consequence it may be necessary for the Resident frequently to intervene under Article 15th of the Treaty. I am not sure that the Govt of India [illegible] that, if no such legislation is undertaken, in the present circumstances the action of the Resident under Article 15th is likely to be less frequent.

But there is really no more reason to fear that the provisions of the Bill will be worked unfairly than that the Resident will act unreasonably. And, should riots may be held

about the present law
position. It is only right
now to point out to the
extraordinary provisions of the
Notification of 1827. It can
hardly be denied that the
action of the Lt. Governor of Tinnevelly
in abuse of the Notification
in that case may be quoted by
him, as the ruling of this
Hon'ble Court, as showing
conclusively that any Resident
would wish to imitate him
under the guise of Article 15.
The Bill, if passed into law,
would put the district of local
Governments in British India all
that they can reasonably require
[illegible] but not all that
they may — or under Article 15

The last point to which the
Govt of India refer — the relation
of these matters to constitutional

development — is of importance
I do not mean on any reasonable
ground, as applied to the decision
of the Privy Council — that it is desirable
to provide new machinery for
practical purposes without delay.
But I suggest that it is a question
for very serious consideration
whether federation would be at
all tolerable unless there was
equality of treatment between
British India & Byron in regard
to extradition.

I have suggested in pencil a slight
addition at page 4 of your
note.

Yours sincerely
H. Risley

C. Sankaranarayana Aiyar Esq.
Under-Secretary
Legislative Department Secretariat

Bangalore,
Dated 26th March 1936

Dear Mr. Subrahmanya Aiyar,

Your note on the Extradition Bill, which you gave me this afternoon, appears to me an excellent one.

It is not for me to discuss the opinion of the Full Bench in Cr. R. P. 192 of 1932-33. But, as you point out in effect, the fact that the Government of India do not like that opinion is certainly no reason why legislation should not be undertaken. The opinion of the Full Bench is binding on the Courts of the State, and legislation is now required. I notice that the Government of India do not offer any criticism on the provisions of the Bill. I have not examined the wording of the Bill minutely -- and I do not suppose that is expected of me. But I may say that the provisions of the Bill appear to me to be suitable and to contain nothing to which the Government of India can reasonably object. They appear to fear that the provisions, if enacted, will not be worked properly and in consequence it may be necessary for the Resident frequently to intervene under Article 15 of the Treaty. I see no ground for that fear; and the Government of India forget that, if no such legislation is undertaken, in the present circumstances intervention by the Resident under Article 15 is likely to be far more frequent.

But there is really no more reason to fear that the provisions of the Bill will be worked unfairly than that the Resident will act unreasonably. And, whatever views may be held about the present legal position, it is surely high

high time to put an end to the extraordinary provisions of the Notification of 1878. It can hardly be denied that the action of the Sub-Magistrate of Tirupati was an abuse of the Notification; and for that we may be grateful to him, as he reduced its provisions to an obvious absurdity. It is inconceivable that any Resident would wish to imitate him under the guise of Article 15. The Bill, so far as I can see, provides for the benefit of Local Governments in British India all that they can reasonably require of Mysore; and behind all that is the reserve power under Article 15.

The last point to which the Government of India refer - the relation of this matter to constitu'ional developments - is of importance : I do not mean as a reason for delay, as after the decision of the Full Bench it is desirable to provide new machinery for practical purposes without delay. But I suggest that it is a question for very serious consideration whether Federation would be at all tolerable unless there was equality of treatment between British India and Mysore in regard to Extradition.

I have suggested in pencil one slight addition on page 4 of your note.

Yours sincerely

Sd/ H.D.C. Reilly.

C. Subrahmanya Aiyar Esq.,
Under Secretary,
General and Revenue Secretariat.

# NOTE ON THE EXTRADITION BILL.

Existing Law:

(a) in respect of Indian States.

There is at present no law in force in Mysore relating to Extradition under which fugitives in Mysore may be arrested and surrendered to other States in India. For the Extradition and surrender of fugitive criminals, Mysore has entered into reciprocal arrangements, with the consent of the Government of India, with a few States such as Hyderabad, Cochin, Travancore, etc.. In respect of most other States, there are no arrangements. The procedure for giving effect to such arrangements rests mainly on executive action and has no statutory basis.

(b) in respect of British India.

The procedure for the extradition and surrender of fugitive offenders from Mysore to British India is based on an old Notification issued by the Chief Commissioner of Mysore in 1878 when the State was administered by the Government of India. Later, when the administration of the State was assumed by the Maharaja of Mysore in 1881, all the enactments and rules, including the above Notification, which were in force during the time of the British administration were continued and declared by a Proclamation of the Maharaja to have force of law. According to the terms of the said Notification, a warrant issued by a Magistrate of British India for the arrest and surrender of a fugitive

criminal has to be acted upon and executed by Magistrates and Police officers in Mysore under the same conditions and in the same manner as a warrant issued by a Magistrate having jurisdiction in Mysore. This procedure has been followed since 1878. Offenders from British India who had sought ~~a~~ asylum in Mysore were arrested and delivered by Mysore authorities on the strength of warrants issued by the British Indian Magistrates, such warrants being automatically executed in Mysore in the same manner as in any other part of British India.

Its defects.

No differentiation whatsoever was made between extraditable and non-extraditable offences, nor was there any need to make out a prima facie case of guilt against the accused person before a warrant ~~is~~ was issued. Though the intention when the Chief Commissioner's Notification of 1878 was issued appears to have been to limit its operation to Extradition offences, in practice all offences and even offences of a purely fiscal nature, such as failure to pay taxes due on a motor-vehicle, municipal offences, offences more or less of a civil nature such as defamation, ~~and acts which have been penalised recently and which could not have been contemplated as offences when the Notification was issued,~~ have in course of time been brought under it. This procedure is very summary and is in marked contrast with that of the Extradition of criminals from British India to Mysore, which is regulated by the Indian Extradition Act of 1903, under which extradition is ordinarily permitted only in respect of certain serious offences which are enumerated in the Schedule to

the

the Act. It also prescribes a preliminary inquiry by a Magistrate of Mysore, the records of which have to be transmitted to the Hon'ble the Resident who has to be satisfied that a prima facie case is made out against the accused person before he can issue a warrant for the arrest and surrender of such person.

The need for legislation.

~~The position~~ Legislation in respect of extradition of offenders to States in India which rested on executive action and which is liable to be challenged before the Courts was under the ~~consideration~~ contemplation of this Government for some time past. The need for placing the arrangements with British India on a more reciprocal basis was also urged upon the Government and ~~they contemplated legislation for placing the arrangements on a more satisfactory basis.~~

In the meantime, in 1933, the legality of the warrants issued by British Indian Magistrates was challenged before the High Court of Mysore in a case in which a bailable warrant had been issued by the Sub-Magistrate of Tirupati against a person accused of an offence under the Motor Vehicles Act. It was contended that the warrant was not valid as the Criminal Procedure Code in force in British India did not authorise a Magistrate to issue a warrant for execution outside the limits of British India. This contention was upheld by a Full Bench of the Mysore High Court and it was held that the British Indian Magistrate was not legally competent to issue a warrant capable of being executed in Mysore. In the

case under reference, the offence was not one classed as extraditable under the law in force in British India. But the grounds for the decision about the illegality of the British Indian Magistrate's warrant seem to be of general application, and doubts are liable to be raised in regard to surrender of fugitives under the Chief Commissioner's Notification even in the case of extraditable offences. This decision has made legislation in regard to extradition necessary and urgent as it would not be possible henceforward to execute warrants issued by British Indian Magistrates as hitherto-fore.

he Extradition Bill.

Consequently, a comprehensive bill modelled on the lines of the Indian Extradition Act was placed before the Legislative Council in June 1934 to place the law of extradition in Mysore on a better and more satisfactory basis. This bill provides for surrender of fugitive criminals to British India and also to the other Indian States.

As soon as the bill was introduced in the Legislative Council, the Government of Mysore informed the Government of India of the proposed legislation in their letter dated 6th August 1934.

In their letter dated 8-11-1934, the Residency intimated this Government that

that the Government of India have telegraphed that the bill requires the previous consent of the Governor-General though as a matter of fact, no such sanction appears necessary under the provisions of the Mysore Treaty. ~~The restrictions placed~~ which places restrictions in Article 18 of the Treaty on the legislative powers of Mysore ~~have~~ has been abrogated and the State is ~~fully~~ competent to pass the bill into law - without reference to the Government of India. The Government of Mysore, however, in deference to the wishes of the Government of India, have postponed the final reading of the bill.

Treaty not affected.

Subsequently in their letter dated 9th July 1935, the Residency communicated that "the objections of the Government of India are not based on Article 18 of the Treaty which it is recognised has been abrogated, but on the fact that the - provisions of Chapters II & III of the bill to some extent affected Articles 10 and 15 of the Treaty." Chapter II of the bill regulates the procedure for the extradition of fugitive offenders from Mysore to the other Indian States. The objection of the Government of India under this Chapter seems to be that it affects the obligation laid on Mysore by Article 10 of the Treaty not to hold any communication or correspondence with other - States except with the previous sanction

and

and through the medium of the Governor-General-in-Council. It is not proposed, when the bill is passed into law, to enter into any extradition agreements directly with any Indian State. Such arrangements will, as at present, be concluded with the approval of the Governor-General. As a matter of fact, extradition arrangements with other States exist even at present, and necessary correspondence in such cases is conducted through the Resident in Mysore and the Political Agents in other States. The procedure for giving effect to these arrangements rests mainly on executive action and has no statutory basis. Chapter II of the bill seeks to regularise the existing practice by giving it a statutory recognition and does not profess to extend the powers of Mysore to enter into direct negotiations with any other Indian State. Extradition arrangements with other States will be entered into with the approval of the Government of India as at present and the rules which will be framed under the Regulation regarding the procedure will provide that requisitions and other communications shall be made through the hon'ble the Resident in Mysore. Thus the terms of Article 10 of the Treaty will be complied with as the correspondence will be with the previous sanction and through the medium of the Governor-General.

As regards Chapter III which deals with the surrender of fugitive offenders from Mysore to British India, it is said that it affects Article 15 of the Treaty which requires that the demands made by the Resident in Mysore for the arrest and surrender of any person accused of having committed an offence in British India should be complied with. As a matter of fact, special provision has been made in the Bill for meeting such cases and clause 23 preserves the prerogative of His Highness to direct the extradition and surrender of any criminal found in Mysore. This provision enables the Government of Mysore to perform the obligations laid on them by Article 15 of the Treaty and this has specially been made clear in the Statement of Objects and Reasons attached to the Bill.

Objections in Government of India letter.

In the latest letter of the Residency dated the 6th March 1936, three points have been raised by the Government of India.

1. It has been said that " the judgment of the Mysore High Court which gave rise to the Bill is open to serious criticism." It is unnecessary to go into the merits of that decision or to question or to discuss its correctness or otherwise as it is not proposed in the Bill to give legislative approval to the

the propositions laid down in the judgment. A certain procedure, as prescribed by the Chief Commissioner's Notification of 1878, was being followed in regard to the surrender of offenders to British India. The Full Bench of the Mysore High Court held that the British Indian Magistrate was not competent to issue a warrant for execution outside the limits of British India and that his warrant for execution in Mysore was illegal and without jurisdiction, so that it could not be acted upon in Mysore. This cast a doubt on the validity of the existing procedure, under which a Magistrate in Mysore executes a warrant issued by a British Indian Magistrate, and makes it impossible for the Mysore authorities to surrender fugitives to British India in a legal manner. As it is the decision of the High Court, it will be binding upon the subordinate courts and they have necessarily to refuse action on the warrant of a British Indian Magistrate, if the accused person raises ~~the~~ any objection. Objections from accused persons on this ground are bound to arise more numerously in future and the courts have to abide by this decision of the High Court. Even otherwise, when no objections are raised, the court cannot ignore the decision of the High Court when it is asked to execute an arrest warrant issued by a British Indian Magistrate. Legislation has therefore become necessary to prescribe a legal abnd Cs

legal procedure for extradition as, without it, any action that may be taken by the Mysore authorities may be considered illegal by the courts. In the absence of legislation it will become necessary to have recourse to Article 15 of the Treaty in every case, which it is desirable to avoid as appears from para 2 of the Residency letter under reference While legislating for this purpose, Mysore has proposed to follow the lead of British India as in other matters of legislation. The Bill provides a procedure for extradition to be ordinarily followed, which is just similar to that followed in British India. For cases of an extraordinary nature, provision is made in the Bill for complying with the demands of the Resident made under Article 15 of the Traaty.

As the decision referred to above is of a Full Bench of the High Court, it can be modified only by another Full Bench decision or by legislation. It will not be constitutional for the Government to suggest to the High Court to set aside that decision. And unless it is modified, the courts are bound to follow it. The only alternative is legislation.

2. It is stated that the Mysore Govt. should have consulted the Government of India before proceeding to embark on legislation which plainly concerns the treaty obligations

obligations of the State. It is also stated that if difficulty is experienced in effecting the arrest of fugitives in accordance with the procedure hitherto in force, a demand will have to be made by the Resident under Article 15 ~~in all cases~~, and compliance with it will be necessary in all cases. As has been already said, none of the clauses of the Treaty are affected by the Bill. Article 10 will not be affected as all communications will pass through the Hon'ble the Resident. Article 15 will not be affected as special provision is made in the Bill for complying with demands under the provisions of this article.

Immediately the Bill was introduced into the Legislative Council, intimation ~~thereof has~~ was ~~been~~ given to the Government of India stating the reasons and the necessity therefor.

There is no room for apprehension that there will be any difficulty experienced in the working of the procedure prescribed under the Bill. In all cases of extraditable offences, the ordinary procedure prescribed in the Bill will secure the arrest and surrender of a fugitive. The procedure is exactly the same as is being followed in British India. In respect of non-extraditable offences, a procedure by means of requisition is prescribed by clause 10 of the Bill. The bill will thus meet with almost all cases where extradition is considered necessary or reasonable. Apart

Apart from these provisions, if the Hon'ble the Resident considers that a particular case is sufficiently grave or important, that a demand for the surrender of an offender should be made under Article 15 of the Treaty, this Government will have no hesitation in complying with it. It would not be reasonable to state that the Hon'ble the Resident will invoke Article 15 of the Treaty in all cases without exercising his discretion.

The Government of India have themselves laid down ( in G.O. dated 3rd May 1878 in No.258 Pol.) their policy that the demand to be made by British Indian Magistrates for the surrender of fugitives must be a reasonable demand. The Government of India ruled that a reasonable demand includes the case of all offences for which the arrest and removal of criminals escaping into British India are allowed under the schedule to the Indian Extradition Act of 1903 and that some cases outside that catalogue may probably be added with propriety. Such instances however would be exceptional and the requisitions for surrender should not be made without the sanction of the Governor-General-in-Council where the offence is not one of those mentioned in the schedule above cited or where the Political Agent doubts the reasonableness of the grounds of the requisition and the Magistrate of the district continues to press for it. Thus, it is intended that only in cases of exceptional

exceptional character where the ~~Hon'ble~~ the Resident considers the requisition of a British Indian Magistrate is reasonable that he will be expected to demand under Article 15 of the Treaty.

3. It is also stated in the Residency letter that " the Government of India are considering to what extent change in extradition arrangements with Indian States is required as a result of constitutional developments and in the meantime they do not consider that the time is appropriate for the proposed legislation". The Government of Mysore will certainly co-operate with the Government of India ~~for~~ implementing by legislation any arrangements that might be arrived at in future in regard to extradition as a result of constitutional developments. The legislation proposed at present is to meet the impasse, as it were, brought about by the Full Bench Decision of the High Court. There can be no objection to pass into law the Bill which is only pending final passing. If any amendments ~~thereof~~ are necessary in future, it will not be difficult to effect ~~such amendments.~~

Mysore Magistrates are bound to arrest and surrender the accused person. Instances have occurred of warrants being issued by British Indian Magistrates for the arrest of persons accused of such minor offences as under the Cattle Trespass Act or an offence created by fiscal laws as the Madras Motor Vehicles Taxation Act, or an offence of a quasi civil nature as defamation. This procedure is in marked contrast with that for the extradition of criminals from British India to Mysore, which is regulated by the Indian Extradition Act under which extradition is ordinarily permitted only in respect of certain serious offences which are enumerated in the Schedule to the Act. The procedure prescribed thereunder is that a preliminary enquiry should be held by a Magistrate of Mysore, the records of the preliminary enquiry should be transmitted by the Government to the Hon'ble the Resident, and the latter, if satisfied that a prima facie case is made out against the accused person, may issue a warrant for the arrest and surrender of such person.

The whole position in respect of extradition of offenders has been under the consideration of the Durbar for some time past and they have been contemplating legislation for placing the arrangements for extradition from Mysore to British India and to other Indian States on a more satisfactory basis. In the meantime, the Full Bench of the High Court of Mysore, in Criminal Revision Petition No. 192 of 1932-

1932-33 gave a decision that though the Chief Commissioner's Notification of 1878 has the force of law in Mysore, a British Indian Magistrate is not legally competent to issue a warrant for execution outside the limits of British India and that his warrant for execution in Mysore is illegal and without jurisdiction. In the case under reference, the offence was not one classed as extraditable under the law in force in British India, but the grounds for the decision about the illegality of the British Indian Magistrate's warrant seem to be of general application and it appears that doubts are liable to be raised in regard to the surrender of fugitives under the Chief Commissioner's Notification even in extraditable ~~cases~~ offences. In view of this decision, legislation became necessary and urgent, and a Bill modelled on the lines of the Indian Extradition Act of 1903 was introduced in the Mysore Legislative Council in June 1934.

In this Bill, the classes of offences which are to be regarded as extradition offences are indicated in a schedule which is identical with the schedule to the British Indian Act. The procedure for the surrender of fugitives to other Indian States follows the procedure under Section 3 of the Indian Act. As regards surrender to British India, the procedure will be identical with that for the surrender of criminals from British India to Mysore. The requisition for surrender will have to be sent to the Government of Mysore with the records of the preliminary enquiry (held by a Magistrate

in British India) and on being satisfied that a prima facie case has been made out, the Government will issue a warrant for the arrest and surrender of the fugitive/s. In the Indian Act, a procedure applicable to all classes of offences has been prescribed under Section 9 for surrender of criminals on the requisitions of Indian States to Local Governments. An exactly similar provision has been made in this Bill also.

(including offences under ordinary Extradition)

This Bill provides the procedure for extradition to be ordinarily followed. In extraordinary cases where the Hon'ble the British Resident makes a demand under Art.15 of the Mysore Treaty for the arrest and surrender of any person accused of having committed an offence in British India, His Highness' Government will duly comply with it. Provision has been made in the Bill for preserving the prerogative right of His Highness the Maharaja to direct the extradition of any criminal in Mysore and this will enable the performance of obligations under Art. 15 ofthe Mysore Treaty.

I am directed to forward herewith a copy of the said Bill for information. The Bill has been referred to a Select Committee of the Legislative Council, and is likely to be passed by the Council at the next session.

I have &c.,

RR 2/8

Chief Secretary to Govt.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

*Bangalore, Dated,* 6th August 1934.

*No.* Pol. 132 & one Legis 110-34-1

*From*

R. Ranga Rao, Esq., B.A., B.L., *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*
Chief

*To*

The Secretary to the Hon'ble the Resident in "ysore,
BANGALORE.

*Sir,*

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Subject :- THE MYSORE EXTRADITION BILL.

Sir,

I am directed to invite reference to my lette: No.Pol.227, dated 1st September 1933, in which it wa: stated that the Government of Mysore intended to implemen by legislation the existing arrangements with other Indian States for the extradition of offenders.

There is at present no law in force in Mysore relating to extradition under which fugitives in Mysore may be arrested and surrendered to other States in India. Mysore has entered into reciprocal arrangements with a few States for purposes of extradition and the procedure for giving effect to such arrangements rests on executive action and has no statutory basis. The Government of Mysore are advised that the arrest and surrender of fugitive criminals under Executive orders of the Government are liable to be challenged before the Courts.

In regard to the extradition of criminals from

from Mysore to British India, the existing procedure is based on the Chief Commissioner's Notification No.III dated 23rd July 1878. According to this Notification it is open to any Magistrate in British India to issue a warrant for the surrender of any subject of Mysore for any offence, and the Mysore Magistrates are bound to arrest and surrender the accused person. Instances have occurred of warrants being issued by British Indian Magistrates for the arrest of persons accused of such minor offences as under the Cattle Trespass Act or an offence created by fiscal laws as the Madras Motor Vehicles Taxation Act, or an offence of a quasi civil nature as defamation. This procedure is in marked contrast with that for the extradition of criminals from British India to Mysore, which is regulated by the Indian Extradition Act under which extradition is ordinarily permitted only in respect of certain serious offences which are enumerated in the Schedule to the Act. The procedure prescribed thereunder is that a preliminary enquiry should be held by a Magistrate of Mysore, the records of the preliminary enquiry should be transmitted by the Government to the Hon'ble the Resident, and the latter, if satisfied that a prima facie case is made out against the accused person, may issue a warrant for the arrest and surrender of such person.

The whole position in respect of extradition of offenders has been under the consideration of the Durbar for some time past and they have been contemplating legislation for placing the arrangements for extradition from

from Mysore to British India and to other Indian States on a more satisfactory basis. In the meantime, the Full Bench of the High Court of Mysore, in Criminal Revision Petition No.192 of 1932-33 gave a decision that though the Chief Commissioner's Notification of 1878 has the force of law in Mysore, a British Indian Magistrate is not legally competent to issue a warrant for execution outside the limits of British India and that his warrant for execution in Mysore is illegal and without jurisdiction. In the case under reference, the offence was not one classed as extraditable under the law in force in British India, but the grounds for the decision about the illegality of the British Indian Magistrate's warrant seem to be of general application and it appears that doubts are liable to be raised in regard to the surrender of fugitives under the Chief Commissioner's Notification even in the case of extraditable offences. In view of this decision, legislation became necessary and urgent, and a Bill modelled on the lines of the Indian Extradition Act of 1903 was introduced in the Mysore Legislative Council in June 1934.

In this Bill, the classes of offences which are to be regarded as extradition offences are indicated in a schedule which is identical with the schedule to the British Indian Act. The procedure for the surrender of fugitives to other Indian States follows the procedure under Section 3 of the Indian Act. As regards surrender to British India, the procedure will be identical with that for the

the surrender of criminals from British India to Mysore. The requisition for surrender will have to be sent to the Government of Mysore with the records of the preliminary enquiry (held by a Magistrate in British India) and on being satisfied that a prima facie case has been made out, the Government will issue a warrant for the arrest and surrender of the fugitive. In the Indian Act, a procedure applicable to all classes of offences (including offences which are not ordinarily Extraditable) has been prescribed under Section 9 for surrender of criminals on the requisitions of Indian States to Local Governments. An exactly similar provision has been made in this Bill also.

This Bill provides the procedure for extradition to be ordinarily followed. In extraordinary cases where the Hon'ble the British Resident makes a demand under Article 15 of the Mysore Treaty for the arrest and surrender of any person accused of having committed an offence in British India, His Highness' Government will duly comply with it. Provision has been made in the Bill for preserving the prerogative right of His Highness the Maharaja to direct the extradition of any criminal in Mysore and this will enable the performance of obligations under Article 15 of the Mysore Treaty.

I am directed to forward herewith a copy of the said Bill for information. The Bill has been referred to

to a Select Committee of the Legislative Council, and is likely to be passed by the Council at the next Session.

I have the honour to be,

S i r,

Your most obedient servant,

RJ 3/6

CHIEF SECRETARY TO GOVERNMENT.

2102 P 34 Pol 4

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F.645-34
R.O.I

Lgs 640-36(2

FROM

Major C. G. N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

*Dated, Bangalore, the* 10th Oct. *193*

**Subject.**

THE MYSORE EXTRADITION BILL.

SIR,

I am directed to acknowledge with thanks the receipt of your letter No. Pol.132/P, dated the 6th August 1934, forwarding a copy of the Mysore Extradition Bill. I am to say that a reference has been made to the Government of India on the subject, and that a further communication will be made to you in due course.

In the meantime I am to request that if there is no objection, you will be so good as to furnish two spare copies of the Bill.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY TO THE RES[illegible]

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

10

+21 E/2

*Bangalore, Dated* ~~19th October~~ 22

*From*

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*

*To*

The Secretary to Hon'ble the Resident in Mysore.

*Sir,*

With reference to your letter No.F. 645-34/R.O.I dated 10th October 1934 about the Mysore Extradition Bill I am directed to forward herewith two copies of the Bill.

I have the honour to be,

Sir,

Your most obedient servant,

Chief Secretary to Government.

Appendix F G—1]

SUBJECT .....

.....

.....

Section

File No.

Serial No.

*Diary No. of letter replied to* .....

No. Pol. 421 E/2

To

The Secy to the Hon'ble

the Resident

General and Revenue Secretariat

( )

*the* *193*

Sir

Date of issue 22/10/34

Signed by Mac N. R. J

With reference to your letter No F.645-34/R.O.10 about 10.10.34 the response Extradition Bill, I am directed to forward herewith two copies of the Bill I have etc

Chief Secy to

List of enclosures .....

Copied by .....

Examined by .....

WD 01956—GPB—22,500—12-6-34

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F. 645-34
R.O.I.

FROM

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

*Dated, Bangalore, the* 8th November 1934

**Subject.**

The Mysore Extradition Bill.

....

SIR,

I am directed to refer to the correspondence ending wit your letter No.Pol.421/P, dated the 19th/22nd October 1934, ar to say that the Government of India have telegraphed to the effect that the Bill requires the previous consent of the Governor General in Council and that their orders will be communicated as soon as possible.

I have the honour to be,
Sir,
Your most obedient servant,

for SECRETARY TO THE RESIDEN

hfj 1100-34(2)-4

The Secretary to the
Hon'ble the Resident in Mysore
Bangalore.

Sir,

Subject:- The Mysore Extradition Bill.

---

With reference to your letter No.F.645-34/R.C.I dated 8th November 1934 stating that the Government of India have telegraphed to the effect that the Bill requires the previous consent of the Governor General in Council, I am directe to state that the Government of Mysore are unable to see how the Bill requires the previous consent of the Government of India, but that they will however, wait for the further communication promised.

I am to add that the Bill will come up for second reading before the Mysore Legislative Council on 17th December 1934.

I have etc.,

Chief Secretary to Govt.

14/11/34

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. Pol 527 / P

Dated, Bangalore 20th November 1934.

24 &

From

Rajasevasakta
R. Ranga Rao, Esq., B.A., B.L.,
Chief ~~Secretary to the Government of His Highness~~ Secy to the Govt. of
~~Chief Secretary to the Government of His Highness~~ the Maharaja of Mysore.

To

The Secretary to the Hon'ble the Resident in Mysore.

Sir, SUBJECT:- The Mysore Extradition Bill.

With reference to your letter No.F.645-34/R.O.I dated 8th November 1934 stating that the Government of India have telegraphed to the effect that the Bill requires the previous consent of the Governor General in Council, I am directed to state that the Government of Mysore are unable to see how the Bill requires the previous consent of the Government of India, but that they will, however, wait for the further communication promised.

I am to add that the Bill will come up for second reading before the Mysore Legislative Council on the 17th December 1934

I have the honour to be,

Sir,

Your most obedient servant,

Chief Secretary to Government.

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

P.645-34
R.O. I

FROM

Major C. G. N. Edwards, I.A.,
SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

*Dated, Bangalore, the* 31st Jany. *193* 5

**Subject.**

THE MYSORE EXTRADITION BILL.

SIR,

I am directed to say that the Government of Madras have telegraphed for thirty copies of the Mysore Extradition Bill, 1934. I am accordingly to request that, if there is no objection, you will kindly furnish for transmission to the Government of Madras, as many copies of the Bill as can conveniently be spared.

I have the honour to be,
Sir,
Your most obedient servant,

for SECRETARY TO THE RESIDENT.

Issued vide Pol 27 of 1.2.35

This will be placed in the main file

BJ
30/1

Diary No. of letter replied to

General and Revenue Secretariat.

( )

the 193

Date of issue 1-2-35

by Mr. C. S. Iyer

List of enclosures

Copied by

Examined by

Section

File No.

Serial No.

No. Pol. 827 E/30

To

The Secy to the

Hon'ble the Revenue

Member: The Nagpura Land Acquisition Bill

Sir,

With reference to your

letter No 7645-36/ROI-E/3111

on the above subject, I am

directed to forward herewith

thirty copies of the

Nagpura Land Acquisition Bill

I have etc

for Chief Secy

[*N.B.*—Portions deleted by the Select Committee are enclosed in square brackets and portions added are printed in italics.]

# MYSORE EXTRADITION BILL.

## As amended by the Select Committee.

Whereas it is expedient to amend and consolidate the law relating to the extradition and rendition of criminals; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title, extent and commencement.

1. (i) This Regulation may be called the Mysore Extradition Regulation, 1934.

(ii) It extends to the whole of Mysore; and

(iii) It shall come into force from such date as the Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(*a*) "extradition offence" means any such offence as is described in the schedule:

(*b*) "offence" includes any act wheresoever committed which would, if committed in Mysore, constitute an offence:

(*c*) "rules" include prescribed forms:

(*d*) "fugitive criminal" means any person accused or convicted of an extradition offence committed outside Mysore who is in or is suspected of being in some part of Mysore: and

(*e*) "prescribed" means prescribed by rules made under this Regulation.

## CHAPTER II.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF *Indian* STATES [IN INDIA].

Application of Regulation.

3. Where an arrangement has been made with any State in India with respect to the surrender to such State

of any fugitive criminals, the Government may, by notification in the *Official Gazette*, direct that this Regulation shall apply in the case of such State.

Every such notification shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Apprehension of fugitives.

**4.** Where this Regulation applies in the case of any State, every fugitive criminal of that State who is in or is suspected of being in any part of Mysore, shall be liable to be apprehended and surrendered in manner provided by this Regulation, whether the offence in respect of which the surrender is sought was committed before or after the date of the notification, and whether there is or is not any concurrent jurisdiction in any court in Mysore over that offence.

Requisition for surrender.

**5.** (1) Where a requisition is made to the Government by or on behalf of the Government of any State in India in the case of which this Regulation applies for the surrender of a fugitive criminal of such State, who is in or is suspected of being in Mysore, the Government may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

Summons or warrant for arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

Inquiry by Magistrate.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the [crime] *offence* of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition [crime] *offence*.

Committal.

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government.

Bail.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or

if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(6) The Magistrate shall report the result of his inquiry to the Government, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

Reference to High Court if Government thinks necessary.

(7) If the Government is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to the High Court and the fugitive criminal shall not be surrendered until such question has been decided.

Warrant for surrender.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re taken upon an escape.

Discharge of fugitive criminal committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

6. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a State in India in the case of which this Regulation applies, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a

warrant if the [crime] *offence* of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Government.

Person arrested not to be detained unless order received

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under sub-section (1) of section 5.

(4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence of which he is accused or has been convicted.

Power of Government to discharge any person in custody at any time.

7. The Government may at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

## CHAPTER III.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF BRITISH INDIA.

Issue of warrant by Government in certain cases.

8. (1) Where an extradition offence has been committed or is supposed to have been committed by a person in British India and such person escapes into or is in Mysore, the Government may, on receipt of a requisition made by or on behalf of any Local Government in British India for the surrender of the said person, direct the issue of a warrant addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, and such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of such warrant.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall

be produced before the District Magistrate who shall record any statement made by him; such accused person shall then, unless released in accordance with the provisions of this Regulation, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

9. (1) Where an endorsement has been made on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Government and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be rearrested and handed over to any person authorised by the Government to take him into custody.

Deposit in lieu of bond, and forfeiture of bonds.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisition for surrender.

10. Where a requisition is made to the Government by or on behalf of any Local Government in British India for the surrender of any person accused of having committed in British India an offence other than an extradition offence, such requisition shall (except in so far as it relates to the taking of evidence to show that the offence is of a political character or is not an extradition offence) be dealt with so far as may be in accordance with the procedure prescribed by section 5.

Power to Magistrates to issue warrants of arrest in certain cases.

11. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in British India and that such person may lawfully be surrendered or that a warrant may be issued for his arrest under section 8, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report to the Government through the District Magistrate the issue of a warrant under this section.

Limit of time of detention of person arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with *the procedure prescribed by* section 10, or a warrant for the arrest of such person is issued under section 8.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such persons were accused of committing in Mysore the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for, offence in Mysore.

12. (1) A person accused of an offence committed in Mysore, not being the offence for which his surrender is asked or undergoing sentence under any conviction in Mysore shall not be surrendered except on the condition that such person be resurrendered to the Government on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

13. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in British India, has escaped into or is in Mysore before his sentence has expired. Application of Chapter to convicted persons.

14. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly. Abetment and attempt.

15. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter to receive, hold in custody and convey to the place named in the warrant the person mentioned in the warrant; and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re-taken upon an escape. Lawfulness of custody and re-taking under warrant issued under Chapter.

16. The Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged Power of Government to stay proceedings and discharge person in custody.

17. The provisions of this Chapter shall apply to an offence *or to an extradition offence, as the case may be,* committed before the passing of this Regulation, and to an offence in respect of which a Court of Mysore has concurrent jurisdiction. Application of Chapter to offences committed before its commencement.

## CHAPTER IV.

### MISCELLANEOUS.

18. In any proceedings under this Regulation, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if authenticated in the prescribed manner, be received as evidence. Receipt in evidence of exhibits, depositions and other documents.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any State in India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure Evidence by commission.

for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term " suit " included criminal proceeding.

Power to make rules.

20. (1) The Government may make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Regulation, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(*b*) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Regulation applies;

(*c*) the pursuit and arrest in Mysore, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere;

(*d*) [(*f*)] the manner of authenticating documents; and

(*e*) [(*d*)]the procedure and practice to be observed in extradition proceedings.

[(*e*) prescribing the authorities of any Local Government in British India or a State in India whose requisitions may be acted upon under this Regulation ; and]

(3) Rules made under this section shall be published in the *Official Gazette* and shall thereupon have effect as if enacted by this Regulation.

Detention of persons arrested.

21. Notwithstanding anything in the Code of Criminal Procedure, 1904, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 11.

Repeal.

22. (1) On and from the date on which this Regulation comes into force, the Chief Commissioner's Notification No. III dated 23rd July 1878 and Government Notification No. J. 219—Legis. 14-04-14, dated the 20th July 1907 [in so far as they are inconsistent with the provisions of this Regulation] shall be deemed to be repealed.

(2) All orders made and acts done under any of the notifications hereby repealed in respect of requisitions received before the coming into force of this Regulation shall have the same force and effect as if they had been made or done under this Regulation.

Prerogative of His Highness the Maharaja direct extradition.

23. Nothing contained in this Regulation shall affect or be deemed to have affected the prerogative [right] of His Highness the Maharaja to direct, independently of this Regulation, the extradition and surrender of any criminal found in Mysore [which right is hereby declared to in and have been always possessed and retained by His Highness].

## THE SCHEDULE.

### Extradition Offences.

(*The sections referred to are the sections of the Indian Penal Code*).

Frauds upon creditors (Section 206).
Resistance to arrest (Section 224).
Offences relating to coin and stamps (Sections 230 to 263 A).
Culpable homicide (Sections 299 to 304).
Attempt to murder (Section 307).
Thugee (Sections 310, 311).
Causing miscarriage and abandonment of child (Sections 312 to 317).
Causing hurt (Sections 323 to 333).
Wrongful confinement (Sections 347, 348).
Kidnapping and slavery (Sections 360 to 373).
Rape and unnatural offences (Sections 375 to 377).
Theft, extortion, robbery, etc., (Sections 378 to 414).
Cheating (Sections 415 to 420).
Fraudulent deeds, etc., (Sections 421 to 424).
Mischief (Sections 425 to 440).
Lurking house-trespass (Sections 443, 444).
Forgery, using forged documents, etc., (Sections 463 to 477-A).
Desertion from the Army.
Piracy by law of nations.
Sinking or destroying a vessel at sea, or attempting conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offences against the laws relating to criminal tribes or against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Government by notification in the *Official Gazette* either generally for British India and [for] all States or specially for British India or for any one or more States.

Pol. 827 E/34

1st February

Rajasevasakta
R. Ranga Rao, Esq., B.A., B.L.,
Chief

THE MYSORE EXTRADITION BILL.

With reference to your letter No.F.645-34/R.O.I. dated 31st January 1935 on the above subject, I am directed to forward herewith thirty copies of the Mysore Extradition Bill.

I have the honour to be,

Sir,

Your most obedient servant,

for Chief Secretary to Government.

Appendix F G—1

SUBJECT .....

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. . .....

*Diary No. of letter replied to* .....

General and Revenue Secretariat

( )

*the* *193*

Date of issue 29. 5 May 1935

Signed by K. K. Nambiaramar.....

List of enclosures .....

Copied by ..... 27/5/35

Examined by... .....

**Section**

**File No.**

**Serial No.**

No. Pol. 1274

To

The Secy to
Govt.

Sir,

I am directed
to invite reference
to the Correspondence
ending with this office
letter Dis Pol. 527
dy 21/11/34 on the
Mysore Extradition
Bill and to enquire
whether the provisions
of the same would be
Govt. of India
may be expected
I am to inform

train [illegible] Bala comes
up between the hours
of 6 & 7 at the end of
June 1935 for having
finally passed.

Love

Elizabeth

27th May 5.

From

K.V.Anantaraman, Esq., B.A.,
Chief Secretary to Government.

To

The Secretary to the Hon'ble the Resident in Mysore.

Sir,

I am directed to invite reference to the correspondence ending with this office Letter No.Pol.527 dated 21st November 1934 regarding the Mysore Extradition Bill and to enquire when the promised communication from the Government of India may be expected.

I am to intimate that the Bill comes up before the Legislative Council at the end of June 1935 for being finally passed.

I have the honour to be,
Sir,
Your most obedient servant,

Chief Secretary to Government.

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

IMMEDIATE.

Pol. Dept. Vol. 1918 (illegible)

No. F.645-34
R.O.I.

Legis 40-34-5

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore

*Dated Bangalore,* the 15th June *1935*.

**Subject.**

THE MYSORE EXTRADITION BILL.

SIR,

I am directed to refer to the correspondence ending with your letter No.Pol.1274/Legis.40-34, dated the 27th May 1935, and to say that the Government of India have informed this Residency that the question is still under examination and that the communication which they have promised is not likely to be despatched this month.

In these circumstances, and in view of the fact that the Bill requires the previous consent of the Governor General in Council, the Government of India assume that the Government of Mysore will prefer to postpone its final reading.

I have the honour to be,
Sir,
Your most obedient servant,

C G N Edwards

SECRETARY TO THE RESIDENT.

OFFICE OF THE FIRST MEMBER OF COUNCIL 16 JUNE 1935

DEWAN'S OFFICE 1935

Done 16/6 Orders

16/6 A motion for passing this Bill has been included in the draft agenda for the L.C. In view of this letter, this motion will be delayed from the agenda, if approved PKH 15.6.

Chief Secretary)
I/c Member)

17-6-35

105 16/6

16/6 The Hon'ble Dewan

16.6 (illegible)

Pol. 1353 & 21 D 35

To

The Secretary,
to the Hon'ble the Resident in Mysor

Subject:- The Mysore Extradition Bill.

Sir,

With reference to your letter No.F.645 34/R.O.1, dated 15th June 1935, on the abov subject, I am directed to state that in deference to the suggestions of the Government of India, the motion to pass the Mysore Extradition Bill finally has not been directed from the agenda of the ensuing Session of the Legislative Council. But the Governmen of Mysore do not however agree with the vie that the Bill requires the previous consent of the Governor General in Council, as the Article 18 of the Treaty of 1923 in this respect has been abrogated by the Kharita of His Excellency the Viceroy and Governor General of India dated 5th December 1933.

I have etc.,

18/6

Offg. Chief Secy. to Govt.

6/18/6/35

21st June 36.

From

K. V. Anantaraman, Esq., B.A.,
Offg. Chief Secretary to Government.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

Subject:- The Mysore Extradition Bill.

Sir,

With reference to your letter No. F. 645-34/R.O.I dated 15th June 1936, on the above subject, I am directed to state that in deference to the suggestion of the Government of India, the motion to pass the Mysore Extradition Bill finally has not been included in the agenda of the ensuing Session of the Legislative Council. The Government of Mysore do not however agree in the view that the Bill requires the previous consent of the Governor General in Council, as Article 18 of the Mysore Treaty has been abrogated.

I have the honour to be,
Sir,
Your most obedient servant,

Offg. Chief Secretary to Government.

Vol. 509

8th November 1935.

From

A. V. Ramanathan, Esq., B.A.,
Chief Secretary to Govt.

To

The Secretary to Hon'ble the Resident in Mysore.

Sir,

Subject.- The Mysore Extradition Bill.

I am directed to invite reference to correspondence ending with your letter No.F.645-34-/R.O.I dated 9th July 1935 on the above subject, and to enquire when the promised communication from the Government of India may be expected.

I am to state that as the Legislative Council meets on the 16th December 1935 this Government desire to place the Bill before the Council for finally passing it.

I have the honour to be,
Sir,
Your most obedient servant,

Chief Secretary to Government.

Pol. 509. 87 8/11/35

To

The Secretary to the Hon'ble Resident.

Subject.- The Mysore Extradition Bill.

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Sir,

I am directed to invite reference to correspondence ending with your letter No.F. 645-34/R.O.I dated 9-7-1935 on the above subject, and to ~~request~~ enquire when the promised communication from the Government of India may be expected. N.P. I am to state that as the Legislative Council meets on the 16th Dec. 1935 this Government desire to place the Bill before the ~~Legislative~~ Council for final passing ~~if possible.~~

I have &c.,

Chief Secy. to Govt.

4/11

2/11/35

Pol 55

232

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F.645-34.
R.O.I.

Pol 40-34-6

FROM

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

*Dated Bangalore,* 9th July *1935.*

**Subject.**

THE MYSORE EXTRADITION BILL.

SIR,

I am directed to acknowledge with thanks the receipt of your letter No. Pol.1353/P, dated the 21st June 1935, and to say that the Hon'ble the Resident is glad that the Government of Mysore have been able to postpone the final reading of the Bill.

2. As to the reasons which led the Government of India to take the view that the Bill requires the previous consent of the Governo General in Council, I am to explain that these are not based on Article 18 of the Treaty, which it is recognised has been abrogated, but on the fact that the provisions of Chapters II and III of the Bill to some extent affect Articles 10 and 15 of the Treaty.

I have the honour to be,
Sir,
most obedient servant,

SECRETARY TO THE RESIDENT.

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F.645-34
R.O.I.

FROM

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE

To

The Chief Secretary to the Government of

His Highness the Maharaja of Mysore.

*Dated Bangalore,* 23rd November *193*5

**Subject.**

THE MYSORE EXTRADITION BILL.

SIR,

I am directed to refer to the correspondence ending with your letter No.Pol.509/Legis.40-34, dated the 8th November 1935, and to say that the Government of India have intimated that the Bill is still under their consideration and that a further communication on the subject will follow as soon as possible.

I have the honour to be,

Sir,

Your most obedient servant,

for SECRETARY TO THE RESIDENT.

KRS.

Lol700
25-11-35

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F.645-34
R.O.I.

FROM

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSOR

To

The Chief Secretary to the Government of

His Highness the Maharaja of Mysore.

*Dated Bangalore,* 23rd November *193*5.

**Subject.**

THE MYSORE EXTRADITION BILL.

SIR,

I am directed to refer to the correspondence ending with your letter No.Pol.509/Legis.40-34, dated the 8th November 1935, and to say that the Government of India have intimated that the Bill is still under their consideration and that a further communication on the subject will follow as soon as possible.

I have the honour to be,

Sir,

Your most obedient servant,

for SECRETARY TO THE RESIDENT.

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No. F.645-
R.O.I.

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14.12.35

From Legis 40-34-7

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

14 DEC. 1935

To

The Chief Secretary to the Government of

His Highness the Maharaja of Mysore.

DEWA CE
17 FEB. 1936
No. 5125

*Dated, Bangalore, the* 14th December *193* 5.

**Subject.**

THE MYSORE EXTRADITION BILL.

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Sir,

With reference to the correspondence ending with my letter No.F.645-34, dated the 23rd November 1935, I am directed to say that the Government of India have telegraphed to say that the Mysore Extradition Bill is still under their consideration. In these circumstances the Hon'ble the Resident would advise that the Government of Mysore might make it convenient to postpone the final reading of the Bill for a further period.

I have the honour to be,
Sir,
Your most obedient servant,

Sub proposal. Recommending the bill is kept in the agenda of the meeting 14/12

16 Members

SECRETARY TO THE RESIDENT.

17/12

17/12

6/7/12

Govt A AR.

Dewan's Office wx. as desired

17/2/36

This file which had been to Dewan's office was referred to the Hon'ble Dewan Sahib

CONFIDENTIAL.

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F.373-36 En
R.O. I

Le Legis 40-34-8

From

Major C. G. N. Edwards, I.A.,
SECRETARY TO THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

*Dated Bangalore,* 6th March *1936*.

**Subject.**

THE MYSORE EXTRADITION BILL.

I am directed to refer to the correspondence ending my letter No.F.645/34/R.O.I, dated the 14th December 1935, and to say that the Government of India consider tha for the following reasons the Mysore Government would be well advised to proceed no further with the Mysore Extradition Bill, a copy of which was forwarded to this Residen with your letter No. Pol.132/P, dated the 6th August 1934:

(1) The judgment of the Mysore High Court, which has given rise to the Bill, is open to serious criticism.

(2) While the Government of India are glad to observe that the Bill is not intended to interfere with the due observance of Article 15 of the Mysore Treaty of 1913, they consider that the Mysore Government should have consulted them through this Residency before proceeding to embark on legislation which plainly concerns the Treaty obligations of the State. If the Bill is passed, and if in consequence difficulty is experienced in effecting through the Mysore Courts, in accordance with the procedure hither in force, the arrest and surrender of persons wanted by Courts in British India, a demand wil have to be made by the Resident, as provided fo in Article 15 of the Treaty. Compliance with that demand will be necessary in all cases, whether of an "extraordinary" nature or otherwise; and the effect of this on the prestige of the Mysore Government and the Mysore Courts is likely to be unfavourable.

(3) The Government of India are considering to what extent a change in extradition arrangements with Indian States is likely to be required as the result of constitutional developments, and meanwhile they do not consider that the time is

appropriate

appropriate for the legislation for which the Bill provides.

I have the honour to be,

Sir,

Your most obedient servant,

for SECRETARY TO THE RESIDENT.

General and Revenue Secr

No. Pol 1111 Legis 40-34-

ated Bangalo., 3.4.....193.

FROM

A. V. RAMANATHAN, ESQ., B.A.,

*Chief Secretary to the Government*
*of His Highness the Maharaja of Mysore.*

TO

General and Revenue Secretariat

NO. Legis 40-34-9

*Dated Bangalore,* 23.4. 1936

32

FROM

A. V. RAMANATHAN, ESQ., B.A.,

*Chief Secretary to the Government*
*of His Highness the Maharaja of Mysore.*

TO

Draft

To

The Secretary to the Resident in Mysor
Bangalore.

Subject: THE MYSORE EXTRADITION BILL.

Sir,

I am directed to acknowledge the receipt of your letter No.F.373-36/R.O.I., dated the 6th March 1936, and to explain the position of the Mysore Government in regard to the several points raised in it.

2. A note explaining the present position of the law relating to Extradition in Mysore and the circumstances that necessitated urgent action accompanies this letter. The inconvenience resulting from the existing arrangements and the difficulties that might arise in giving effect to the understanding with other States were brought to the notice of this Government during the discussions that took place in connection with the arrangements made with the Savanoor State in January 1929.

3. The question was again discus in considerable detail in connection with the proposal of the Government of Baroda to enter into reciprocal arrangements with this State for the extradition of fugitive offenders, and, as a result, it was intimate to the Residency, in Mr. R. Ranga Rao's letter No. Pol. 227, dated the 1st September 1933, that "the Government of Mysore are

advised that the executive authority of the Government alone to arrest and surrender fugitive offenders to another Native State for trial may not be legally recognised as sufficient for arresting and surrendering them in pursuance of the reciprocity system which may from time to time be adopted between Mysore and other Native States. The Government of Mysore are therefore taking steps to amend the law for this purpose and I am desired to say that the proposal of the Baroda Government can be best considered after the law is modified accordingly."

4. As regards British India, the position was doubtless different, as the Chief Commissioner's Notification of 23rd July 1878, answered the purpose as far as it went. But ~~the scope of~~ that Notification ~~was necessarily limited by the terms~~ should be construed in the light of the Government of India Order, No.219/Pol., dated the 12th April 1875, prescribing that the demand ~~by British Indian Magistrates~~ for the surrender of fugitives must be a reasonable one, and would include ordinarily all offences for which the arrest and removal of criminals escaping into British India are allowed under the schedule to the Indian Extradition Act of 1903.

5. Even the Chief Commissioner's Notification of 1878 makes only an imperfect provision in regard to the surrender of fugitives to British India in ~~regard to~~ some heinous cases. In particular, provisions similar to those in Section 9 of Chapter III of the Indian Extradition Act for extradition of fugitive offenders from Mysore in non-extradi-

table cases (other than the few cases which may come under the last clause of the order of the Government of India referred to above,) are not available in Mysore. Lastly, it has been found that there is no provision of law in Mysore for the detention of arrested persons for a period of two months as provided in the Indian Extradition Act, Sections 4 (3) and 10 (3).

6. While the preparation of a bill for remedying the above defects was under contemplation, the judgment of the Mysore High Court referred to in previous correspondence made the existing procedure entirely unworkable. In your letter under reference it is stated that that judgment is open to serious criticism. The Government of Mysore, are, however, unable, for obvious reasons, to discuss the merits of a judgment of their own High Court. They had necessarily to take note of the situation created by that judgment. It was more than probable that the arrest of any person under British Indian warrants, as hitherto, would be contested in the subordinate courts, which are bound by the decision of the High Court. This was, indeed, the main reason for undertaking legislation at this stage. As soon as the bill was introduced in the Legislative Council, intimation was given to the Residency.

7. His Highness's Government fully realise that since extradition is a bilateral ~~transaction~~ arrangement, it would have been better if the Government of India had been consulted

in the matter and their consent obtained before any steps were taken to modify the existing arrangement. I am to express th regret of this Government for the omissic I am at the same time to express the hope that this will not be allowed to stand in the way of a favourable consideration of the main question on its merits.

8. The Bill is ~~an exact replica~~ modelled on the British Indian Act. It provides firs for the implementing of agreements entere into with other Indian States through the Government of India; secondly, for the extradition to British India of offenders in extraditable cases, and thirdly, for the extradition of persons in non-extradi table cases. It will be noticed, also, t provision is made for extraordinary cases not coming under the ordinary provisions of the Bill, so that any requisition by the Resident, under Article 15 of the Treaty, may be promptly complied with without any difficulty. The prerogative of His Highness the Maharaja is definitel recited and reserved in clause 23 of the Bill.

9. The present proposal is thus merely to ~~place~~ bring the law in Mysore ~~on the same footing as~~ in conformity with the law in British India and in some Indian States. There is similar legislation even in a small State like Pudukota, to mention only one instance. I am to state that the Govern-ment of Mysore would be glad to consider

any modifications which the Government of India might suggest.

10. I am to add that the suggestion made in paragraph (3) of your letter under advertance is not acceptable to the Government as it would only postpone consideration of the measure to an indefinite date, and would not meet the difficulties that have actually arisen now. Moreover, it is not known if and when exactly Federation will come into being, and even if it should within a reasonable distance of time, the entry of Mysore into the Federation is by no means a certainty. In these circumstances it does not seem desirable to put this matter aside indefinitely. Should conditions arise in the future necessitating any modifications of the Law, the Government of Mysore would be only too pleased to consider them.

11. I am to express the hope that the above explanation will enable the Hon'ble the Resident to use his good offices to secure a reconsideration of the matter by the Government of India and to obtain their consent to this Government's proceeding with their Bill.

I have, etc.,

Chief Secretary to Government.

LETTER No. POL. 1111—LEGIS. 40-34, DATED 23RD APRIL 1936, FROM THE CHIEF SECRETARY TO THE GOVERNMENT OF MYSORE TO THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE REGARDING THE MYSORE EXTRADITION BILL.

**GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE**

**General and Revenue Secretariat,**

**No. Pol. 1111-Legis. 40-34.** ***Dated Bangalore, 23rd April 1936.***

FROM

A. V. RAMANATHAN, ESQ., B. A.,

*Chief Secretary to the Government of*
*His Highness the Maharaja of Mysore.*

TO

THE SECRETARY TO THE RESIDENT IN MYSORE,
BANGALORE.

*Subject*:—THE MYSORE EXTRADITION BILL.

SIR,

I am directed to acknowledge the receipt of your letter No. F. 373-36—R. O. I., dated the 6th March 1936, and to explain the position of the Mysore Government in regard to the several points raised in it.

2. A note explaining the present position of the law relating to Extradition in Mysore and the circumstances that necessitated urgent action accompanies this letter.

The inconvenience resulting from the existing arrangements and the difficulties that might arise in giving effect to the understanding with other States were brought to the notice of this Government during the discussions that took place in connection with the arrangements made with the Savanoor State in January 1929.

3. The question was again discussed in considerable detail in connection with the proposal of the Government of Baroda to enter into reciprocal arrangements with this State for the extradition of fugitive offenders, and, as a result, it was intimated to the Residency, in Mr. R. Ranga Rao's letter No. Pol. 227, dated the 1st September 1933, that "the Government of Mysore are advised that the executive authority of the Government alone to arrest and surrender fugitive offenders to another Native State for trial may not be legally recognised as sufficient for arresting and surrendering them in pursuance of the reciprocity system which may, from time to time, be adopted between Mysore and other Native States. The Government of Mysore are therefore taking steps to amend the law for this purpose and I am desired to say that the proposal of the Baroda Government can be best considered after the law is modified accordingly."

4. As regards British India, the position was doubtless different, as the Chief Commissioner's Notification of 23rd July 1878, answered the

purpose as far as it went. But that Notification should be construed in the light of the Government of India Order, No. 219—Pol., dated the 12th April 1875, prescribing that the demand for the surrender of fugitives must be a reasonable one, and would include ordinarily all offences for which the arrest and removal of criminals escaping into British India are allowed under the schedule to the Indian Extradition Act of 1903.

5. Even the Chief Commissioner's Notification of 1878 makes only an imperfect provision in regard to the surrender of fugitives to British India in some heinous cases. In particular, provisions similar to those in Section 9 of Chapter III of the Indian Extradition Act for extradition of fugitive offenders from Mysore in non-extraditable cases are not available in Mysore. Lastly, it has been found that there is no provision of law in Mysore for the detention of arrested persons for a period of two months as provided in the Indian Extradition Act, Sections 4 (3) and 10 (3).

6. While the preparation of a bill for remedying the above defects was under contemplation, the judgment of the Mysore High Court referred to in previous correspondence, made the existing procedure entirely unworkable. In your letter under reference it is stated that that judgment is open to serious criticism. The Government of Mysore are, however, unable, for obvious reasons, to discuss the merits of a judgment of their own High Court. They had necessarily to take note of the situation created by that judgment. It was more than probable that the arrest of any person under British Indian warrants, as hitherto, would be contested in the subordinate courts, which are bound by the decision of the High Court. This was, indeed, the main reason for undertaking legislation at that stage. As soon as the bill was introduced in the Legislative Council, intimation was given to the Residency.

7. His Highness's Government fully realise that, since extradition is a bilateral arrangement, it would have been better if the Government of India had been consulted in the matter and their consent obtained before any steps were taken to modify the existing arrangement. I am to express the regret of this Government for this omission on their part. I am at the same time to express the hope that this will not be allowed to stand in the way of a favourable consideration of the main question on its merits.

8. The Bill is modelled on the British Indian Act. It provides firstly for the implementing of agreements entered into with other Indian States through the Government of India; secondly, for the extradition to British India of offenders in extraditable cases; and thirdly, for the extradition of persons in non-extraditable cases. It will be noticed, also, that provision is made for extraordinary cases not coming under the ordinary provisions of the Bill, so that any requisition by the Resident, under Article 15 of the Treaty, may be promptly complied with without any difficulty. The prerogative of His Highness the Maharaja is definitely recited and reserved in clause 23 of the Bill.

9. The present proposal is thus merely to bring the law in Mysore in conformity with the law in British India and in some Indian States. There is similar legislation even in a small state like Pudukottai, to mention only one instance. I am to state that the Government of Mysore would be glad to consider any modifications which the Government of India might suggest.

10. I am to add that the suggestion made in paragraph (3) of your letter under advertence is not acceptable to the Durbar as it would only postpone consideration of the measure to an indefinite date, and would not meet the difficulties that have actually arisen now. Moreover, it is not known if and when exactly Federation will come into being, and even if it should within a reasonable distance of time, the entry of Mysore into the Federation is by no means a certainty. In these circumstances, it does not seem desirable to put this matter aside indefinitely. Should conditions arise in the future necessitating any modifications of the law, the Government of Mysore would be only too pleased to consider them.

11. I am to express the hope that the above explanation will enable the Hon'ble the Resident to use his good offices to secure a reconsideration of the matter by the Government of India and to obtain their consent to this Government proceeding with their Bill.

I have the honour to be,

Sir,

Your most obedient servant,

*Chief Secretary to Government.*

# NOTE ON THE EXTRADITION BILL.

Existing Law: (a) In respect of Indian States.

There is at present no law in force in Mysore relating to extradition under which fugitives in Mysore may be arrested and surrendered to other States in India. For the extradition and surrender of fugitive criminals, Mysore has entered into reciprocal arrangements, with the consent of the Government of India, with a few States such as Hyderabad, Cochin, Travancore, etc. In respect of most other States, there are no arrangements. The procedure for giving effect to such arrangements rests mainly on executive action and has no statutory basis.

(b) In respect of British India.

The procedure for the extradition and surrender of fugitive offenders from Mysore to British India is based on an old Notification issued by the Chief Commissioner of Mysore in 1878 when the State was administered by the Government of India. Later, when the administration of the State was resumed by the Maharaja of Mysore in 1881, all the enactments and rules, including the above Notification, which were in force during the time of the British administration were continued and declared by a Proclamation of the Maharaja to have the force of law. According to the terms of this Notification, a warrant issued by a magistrate in British India for the arrest and surrender of a fugitive criminal has to be acted upon and executed by magistrates and police officers in Mysore under the same conditions and in the same manner as a warrant issued by a magistrate having jurisdiction in Mysore. This procedure has been followed since 1878. Offenders from British India who had sought asylum in Mysore were arrested and delivered by Mysore authorities on the strength of warrants issued by the British Indian Magistrates, such warrants being automatically executed in Mysore in the same manner as in any other part of British India.

Its defects.

No differentiation whatsoever was made between extraditable and non-extraditable offences, nor was there any need to make out a *prima facie* case of guilt against the accused person before a warrant was issued. Though the intention, when the Chief Commissioner's Notification of 1878 was issued, appears to have been to limit its operation to extradition offences, in practice all offences and even offences of a purely fiscal nature such as failure to pay taxes due on a motor vehicle, municipal offences, offences more or less of a civil nature such as defamation have in course of time been brought under it. This procedure is very summary and is in marked contrast to that of the extradition of criminals from British India to Mysore, which is regulated by the Indian Extradition Act of 1903, under which extradition is ordinarily permitted only in respect of certain serious offences which are enumerated in the Schedule to the Act. It also prescribes a preliminary inquiry by a magistrate in Mysore, the records of which have to be transmitted to the Resident who has to be satisfied that a *prima facie* case is made out against the accused person before he can issue a warrant for the arrest and surrender of such person.

The need for Legislation.

Legislation in respect of extradition of offenders to States in India which rested on executive action and which was liable to be challenged before the Courts had been under the contemplation of this Government for some time past (*Vide* letter No. Pol. 227, dated 1st September 1933 to the Secretary to the Resident). The desirability of placing the arrangements with British India on a more reciprocal basis was also urged upon this Government. In the meantime, in 1933, the legality of the warrants issued by British Indian magistrates was challenged before the High Court of Mysore in a case in which a bailable warrant had been issued by the Sub-Magistrate of Tirupati against a person accused of an offence under the Motor Vehicles Act. It was contended that the warrant was not valid as the Criminal Procedure Code in force in British India did not authorise a magistrate to issue a warrant for execution outside the limits of British India. This contention was upheld by a Full Bench of the Mysore High Court and it was held that the British Indian magistrate was not legally competent to issue a warrant capable of being executed in Mysore. In the case under reference, the offence was not one classed as extraditable under the law in force in British India. But some of the grounds for the decision about the illegality of the British Indian magistrate's warrant seem to be of general application, and doubts are liable to be raised in regard to surrender of fugitives under the Chief Commissioner's Notification even in the case of extraditable offences. This decision has made legislation in regard to extradition necessary and urgent as the routine execution of warrants issued by British Indian magistrates as hithertofore has become difficult.

The Extradition Bill.

Consequently, a comprehensive bill modelled on the lines of the Indian Extradition Act was placed before the Legislative Council in June 1934 to place the law of extradition in Mysore on a better and more satisfactory basis. This bill provides for surrender of fugitive criminals to British India and also to other Indian States.

As soon as the bill was introduced in the Legislative Council, the Government of Mysore informed the Government of India of the proposed legislation in their letter dated 6th August 1934.

In their letter, dated 8th November 1934, the Residency intimated this Government that the Government of India have telegraphed that the bill requires the previous consent of the Governor-General though as a matter of fact no such sanction would be necessary under the provisions of the Mysore Treaty. Article 18 of the Treaty which placed restrictions on the legislative powers of Mysore has been abrogated, and the bill could have been passed into law without reference to the Government of India. The Government of Mysore, however, in deference to the wishes of the Government of India, have postponed the final reading of the bill.

Subsequently in their letter dated 9th July 1935, the Residency communicated that "the objections of the Government of India are

## NOTE ON THE EXTRADITION BILL.

Existing Law: (a) In respect of Indian States.

There is at present no law in force in Mysore relating to extradition under which fugitives in Mysore may be arrested and surrendered to other States in India. For the extradition and surrender of fugitive criminals, Mysore has entered into reciprocal arrangements, with the consent of the Government of India, with a few States such as Hyderabad, Cochin, Travancore, etc. In respect of most other States, there are no arrangements. The procedure for giving effect to such arrangements rests mainly on executive action and has no statutory basis.

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Its defects.

No differentiation whatsoever was made between extraditable and non-extraditable offences, nor was there any need to make out a *prima facie* case of guilt against the accused person before a warrant was issued. Though the intention, when the Chief Commissioner's Notification of 1878 was issued, appears to have been to limit its operation to extradition offences, in practice all offences and even offences of a purely fiscal nature such as failure to pay taxes due on a motor vehicle, municipal offences, offences more or less of a civil nature such as defamation have in course of time been brought under it. This procedure is very summary and is in marked contrast to that of the extradition of criminals from British India to Mysore, which is regulated by the Indian Extradition Act of 1903, under which extradition is ordinarily permitted only in respect of certain serious offences which are enumerated in the Schedule to the Act. It also prescribes a preliminary inquiry by a magistrate in Mysore, the records of which have to be transmitted to the Resident who has to be satisfied that a *prima facie* case is made out against the accused person before he can issue a warrant for the arrest and surrender of such person.

not based on Article 18 of the Treaty which it is recognised has been abrogated, but on the fact that the provisions of Chapters II and III of the bill to some extent affected Articles 10 and 15 of the Treaty." Chapter II of the bill regulates the procedure for the extradition of fugitive offenders from Mysore to other Indian States. The objection of the Government of India to this Chapter seems to be that it affects the obligation laid on Mysore by Article 10 of the Treaty not to hold any communication or correspondence with other States except with the previous sanction and through the medium of the Governor-General-in-Council. It is not proposed, when the bill is passed into law, to enter into any extradition agreements directly with any Indian State. Such arrangements will, as at present, be concluded with the approval of the Governor-General. As a matter of fact, extradition arrangements with other States exist even at present, and necessary correspondence in such cases is conducted through the Resident in Mysore and the Political Agents in other States. The procedure for giving effect to these arrangements rests mainly on executive action and has no statutory basis. Chapter II of the bill seeks to regularise the existing practice by giving it a statutory recognition and does not profess to extend the powers of Mysore to enter into direct negotiations with any other Indian State. Extradition arrangements with other States will be entered into with the approval of the Government of India as at present and the rules which will be framed under the Regulation regarding the procedure will provide that requisitions and other communications shall be made through the Resident in Mysore. Thus the terms of Article 10 of the Treaty will be complied with as the correspondence will be with the previous sanction and through the medium of the Governor-General.

As regards Chapter III which deals with the surrender of fugitive offenders from Mysore to British India, it is said that it affects Article 15 of the Treaty which requires that the demands made by the Resident in Mysore for the arrest and surrender of any person accused of having committed an offence in British India should be complied with. As a matter of fact, special provision has been made in the bill for meeting such cases, and clause 23 preserves the prerogative of His Highness to direct the extradition and surrender of any criminal found in Mysore. This provision enables the Government of Mysore to perform the obligations laid on them by Article 15 of the Treaty and this has specially been made clear in the statement of objects and reasons attached to the bill.

In the latest letter of the Residency, dated the 6th March 1936, three points have been raised by the Government of India.

Objections in Government of India letter.

1. It has been stated that "the judgment of the Mysore High Court which gave rise to the bill is open to serious criticism." It does not seem to be necessary to go into the merits of that decision or to question or to discuss its correctness or otherwise as it is not proposed in the bill to give legislative approval to the propositions laid down in the judgment. A

certain procedure, as prescribed by the Chief Commissioner's Notification of 1878, was being followed in regard to the surrender of offenders to British India. The Full Bench of the Mysore High Court held that the British Indian Magistrate was not competent to issue a warrant for execution outside the limits of British India and that his warrant for execution in Mysore was illegal and without jurisdiction, so that it could not be acted upon in Mysore. This cast a doubt on the validity of the existing procedure, under which a Magistrate in Mysore executes a warrant issued by a British Indian Magistrate, and makes it impossible for the Mysore authorities to surrender fugitives to British India in a legal manner. Being a decision of the High Court, it will be binding upon the subordinate courts and they have necessarily to refuse action on the warrant of a British Indian Magistrate, if the accused person raises any objection. Even otherwise, when no objections are raised, the court cannot ignore the decision of the High Court when it is asked to execute an arrest warrant issued by a British Indian Magistrate. Legislation has therefore become absolutely necessary to prescribe a legal procedure for extradition, as without it, any action taken by the executive authorities may be considered illegal by the courts. In the absence of legislation it will become necessary to have recourse to Article 15 of the Treaty in every case, which it is desirable to avoid as suggested in para 2 of the Residency letter under reference. While legislating for this purpose, Mysore has proposed to follow the lead of British India as in other matters of legislation. The bill provides a procedure for extradition to be ordinarily followed, which is similar to that followed in British India. For cases of an extraordinary nature, provision is made in the bill for complying with the demands of the Resident made under Article 15 of the Treaty.

As the decision referred to above is that of a Full Bench of the High Court, it can be modified only by another Full Bench decision or by legislation. It would not be constitutional for the Government to suggest to the High Court to set aside that decision. And unless it is modified, the courts are bound to follow it. The only alternative, therefore, is legislation.

2. It is stated that the Mysore Government should have consulted the Government of India before proceeding to embark on legislation which plainly concerns the treaty obligations of the State. It is also stated that if the bill is passed, and if in consequence difficulty is experienced in effecting the arrest of fugitives in accordance with the procedure hitherto in force, a demand will have to be made by the Resident under Article 15, and compliance with it will be necessary in all cases.

Immediately the bill was introduced into the Legislative Council, intimation was given to the Government of India stating the reasons and the necessity therefor. There is no room for apprehension that there will be any difficulty experienced in the extradition of fugitive offenders accord-

ing to the procedure prescribed under the bill when passed. In all cases of extraditable offences, the ordinary procedure prescribed in the bill will secure the arrest and surrender of a fugitive. The procedure is the same as is being followed in British India. In respect of non-extraditable offences, a procedure by means of requisition is prescribed by clause 10 of the bill. The bill will thus meet ~~with~~ almost all cases where extradition is considered necessary or reasonable. Apart from these provisions, if the Resident considers that a particular case is sufficiently grave or important, to demand the surrender of an offender under Article 15 of the Treaty, this Government will have no hesitation in complying with it. It would not be reasonable to state that the Resident will invoke Article 15 of the Treaty in all cases without exercising his discretion. The Government of India have themselves laid down (in G. O. No. 219—Pol., dated 12th April 1875) their policy that the demand to be made for the surrender of fugitives must be a reasonable demand. The Government of India ruled that a reasonable demand includes the case of all offences for which the arrest and removal of criminals escaping into British India are allowed under the schedule to the Indian Extradition Act of 1903 and that some cases outside that catalogue may probably be added with propriety. Such instances, however, would be exceptional and the requisitions for surrender should not be made without the sanction of the Governor in Council where the offence is not one of those mentioned in the schedule above cited or where the Political Agent doubts the reasonableness of the grounds of the requisition and the magistrate of the district continues to press for it.

3. It is also stated in the Residency letter that " the Government of India are considering to what extent change in extradition arrangements with Indian States is required as a result of constitutional developments and in the meantime they do not consider that the time is appropriate for the proposed legislation." The Government of Mysore will certainly be glad to co-operate with the Government of India in implementing by legislation any arrangements that might be arrived at in future in regard to extradition as a result of constitutional developments. The legislation proposed at present is to meet the *impasse*, as it were, brought about by the Full Bench decision of the High Court.

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

4111 P836 Pol. 917

38

No. F.373-36
R.O. I

FROM Legis 40-34-40

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

Dated Bangalore, 23rd January 1937.

THE MYSORE EXTRADITION BILL.

SIR,

Reference the correspondence ending with my letter No.F.373-36/R.O.I dated 4th December 1936.

2. I am directed to request that if there is no objection, copies of the orders of the Government of India No.Pol.258 dated 3rd May 1878 and No.219-Pol. dated the 12th April 1875, (referred to respectively in the Note enclosed with letter from Sir Mirza Ismail dated 30th March 1936, and Mr. Ramanathan's letter No.Pol.1111-Legis. 40-34 dated 23rd April 1936) may kindly be forwarded to this Residency at an early date, as they are not readily traceable.

I have the honour to be,
Sir,
Your most obedient servant,

for SECRETARY TO THE RESIDENT.

Appendix F G—1]

SUBJECT.....

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Section Legis

File No. L.O. 34

Serial No. 11

*Diary No. of letter replied to*.....

No. Col 943 Encl 1

To The Secy to the Hon'ble the Revenue

Sir The Superintendent Central Bill

General and Revenue Secretariat

( )

*the* *193*

With reference to your letter No F 373-36 R.O.I dy 23-1-37 on the above subject I am directed to state that copies of the orders referred to are not readily available I am, however, to forward ~~a copy of~~ an extract from p. xxxi, Appendix II of Satoris's Rev. Pl. and

Date of issue 17-2-1937

Signed by Mr. B.T.K.

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

1927 edition where these orders are required to

Kind reference is also invited to para 61 at p. 21 of the Madras Manual of Procedure relating to Extradition.

I am to add that G.O No Pol (S) dy 3-5-1871 referred to in the note enclosed with this circular letter is to be read as G.O No 955 Political dy 3-5-1875.

I have etc

DMS
16/2

Chief Secy

4/9
16.2

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat 41

*Bangalore, Dated,* 17th February 1937.

No.

From

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Secretary to the Hon'ble the Resident in Mysore, Bangalore.

Sir,

Subject:- The Mysore Extradition Bill.

With reference to your letter No. F. 373-36/R.O.I, dated 23rd January 1937 on the above subject, I am directed to state that copies of the orders referred to are not readily traceable. I am, however, to forward an extract from page XXXI, Appendix II of Sohoni's Criminal Procedure Code, 1927 edition, where these orders are referred to.

Kind reference is also invited to para 61 at page 21 of the Madras Manual of Procedure relating to Extradition.

I am to add that Government Order No. Pol.258 dated 3rd May 1878 referred to in the note enclosed with Sir Mirza's letter is to be read as Government Order No. 258 Political dated 3rd May 1875.

I have the honor to be,
Sir,
Your most obedient servant,

Chief Secretary to Government.

by Sohoni (1927 Edn.)

P. xxxi

42

VII.- Miscellaneous.

Act XV of 1903.- Act XV of 1903 does not profess to deal with the matter of requisitions for the surrender of criminals, who have fled from justice out of British India into a Native State, but with the converse. The standing order on the subject by the Government of India is that "where such a demand is made it should be made by our Magistrates, not to the State direct, but through the Political Officer; and the demand should invariably be accompanied by a copy of any depositions made, or where no evidence has yet been taken, by a statement of the information on which the arrest of the offender is deemed necessary. It should rest with the Policital Agent if necessary, to call on the Magistrate for further information, but if the Political Agent possesses the influence and weight he ought to have, he will seldom fail to obtain compliance with any reasonable demand made to the Durbar to which he is accredited, for the surrender of an absconded criminal." As to what is a "reasonable demand," the Government of India state that it certainly includes the case of all offences (vide Schedule I of Act XV of 1903) for which the arrest and removal of criminal escaping into British India is allowed; and that some cases outside of that catalogue may probably be added with propriety. Such instances, however, would be exceptional and the requisitions for surrender should not be made without the sanction of the Governor in Council, where the offence is not one of those mentioned in the Schedule above cited, or where the Political Agent doubts the reasonableness of the grounds of the requisition, and the Magistrate of the District continues to press it. - (G.O. 12th April 1875, No.219, Political).

Procedure in arrest.- Officers or the Magistracy, in applying for the arrest and surrender of criminals who have escaped from British India into a Native State, should do so by means of a letter addressed to the Political Agent concerned. The issue of a warrant in such cases is clearly irregular and unauthorised.- (G.O.3rd May 1875, No.258, Political).

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

1344 P 937 Pol 3

No. F.1178-37
R.O. I

Legis 40-34-12

From

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

*Dated Bangalore,* 26th August *1937.*

THE MYSORE EXTRADITION BILL.

Sir,

I am directed to refer to the correspondence ending with your letter No. Pol.943/Legis.40-34, dated the 17th February

2. I am to say that His Excellency the Crown Representative, with the concurrence of the Government of India, has no objection to the Mysore Government proceeding further with the Mysore Extradition Bill, subject to the following remarks:

(a) As the phrase "extradition offence" is used in clause 2(d) of the Bill (definition of "fugitive criminal") and also in clause 10, it would be preferable to use the same phrase in clause 5(3) instead of the phrase "extradition crime"; the word "crime" in clause 6(1) should presumably be "offence".

(b) The Bill is avowedly designed to render ineffectual the Mysore Chief Commissioner's Notification No.111, dated the 23rd July 1878, and the Mysore Government's Notification No.J. 219-Legis.-14-04-14, dated the 20th July 1907. The qualification of the repeal of those notifications in sub-clause (1) of clause 22 by the words "in so far as they are inconsistent with the provisions of this Regulation" would appear to serve no purpose and might well be omitted.

(c) In clause 23 the word "criminal" is ambiguous, and might be interpreted in the light of the definition of "fugiti criminal" and "offence" in clause 2 as qualifying the power of His Highness the Maharaja to surrender a person wanted in British India for an act done in British India, which constitutes an offence in British India but which would not have constituted an offence if done in Mysore. In Article 15 of the Mysore Treaty of 1913, the words "an offence in British India" obviously embrace an act which is an offence in British India though not in Mysore. As clause 23 is admittedly designed to avoid any risk of a position being produced in whi Mysore legislation would have rendered it impossible on any conceivable occasion to discharge the obligation imposed by Article 15 of the Treaty, the Mysore Government will no doubt readily agree to clarify the point by appending the following explanation to clause 23:

> "Explanation: In this section "criminal" includes a person accused or convicted in British India of an act which, whether or not constituting an offence if done in Mysore, constitutes an offence if done ir British India".

(d) In view of the recent constitutional changes in British India. the references in the Bill to Local Governments should be replaced by references to Provincial Governments.

3. I am to request that the suggestions referred to above may be incorporated in a revised Bill, a copy of which the Crown Representative will be glad to see in its final form.

4. Clause 20(2)(e) of the Bill empowers the Government of Mysore to prescribe by rule the authorities of any Local Government in British India whose requisitions may be acted upon by them. I am to request that all District Magistrates in British India may be prescribed as the authorities upon whose requisitions for extradition the Government of Mysore may act. Such requisitions should however follow the

same procedure as in e.g. Hyderabad, and pass through the Residency.

5. I am to inform the Government of Mysore that recourse will be had to Article 15 of the Mysore Treaty of 1913 if and when this is considered necessary by the Crown Representative irrespective of the nature of the case.

I have the honour to be,

Sir,

Your most obedient servant,

H Rangayar

SECRETARY TO THE RESIDENT.

Rol 326 a 6.7.37

To

The Secretary to the Hon'ble
the Resident in Mysore.

Subject:- The Mysore Extradition Bil

Sir,

I am directed to acknowledge the receipt of your letter No. F.1178-37/R.O.I, dated the 26th August 1937, intimating that His Excellency the Crown Representative, with the concurrence of the Government of India, has no objection to the Mysore Government proceeding further with the Mysore Extradition Bill, subject to certain remarks

The Government of Mysore are very grateful to His Excellency the Crown Representative as well as to the Government of India, for having accorded general consent to the Bill being proceeded with. I am to request that the thanks of the Mysore Government may be kindly conveyed to them, and also to the Hon'ble the Resident for his good offices in helping this Government in ~~getting over a somewhat difficult and delicate situation~~ dealing this question.

I am to add that the modifications suggested will be duly considered, and a copy of the bill as finally revised will, as desired, be sent for the perusal of His Excellency the Crown Representative

I have etc.,

MK 2.9.37

Chief Secretary to Govt.

**GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE**

47

**General and Revenue Secretariat**

*Dated, Bangalore,* 22nd December *1937*

No. Pol 683 &Secl

**From**

The *Chief Secretary to the Government of His Highness the Maharaja of Mysore.*

**To**

The Secretary to the Hon'ble the Resident in Mysore.

**Sir,**

In continuation of this office letter No.Pol.326 dated 6th September 1937 regarding the Extradition Bill, I am directed to forward herewith, a copy of the Bill as finally revised and to state that it is proposed to place this Bill before the ensuing Legislative Council which commences from 24th January 1938.

I have the honor to be,
Sir,
Your most obedient servant,

22/12

For Chief Secretary to Government.

Appendix F G—1]

SUBJECT .....

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*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193* .

Date of issue 22-12-37

Signed by .....

List of enclosures.....

Copied by .....

Examined by.....

**Section**

**File No.**

**Serial No.**

No. Pol. 683 Epoue

To

The Secy to the
Govt of the Punjab

Sir,

In continuation
of this office letter
No Pol 326 of 6-9-3
on the Encroachments Bill
I am directed to
forward herewith
a copy of the Bill
as finally passed
and to state that

As finally passed.

Please substitute the word 'Act' for the word 'Regulation' wherever it occurs in this

## NOTIFICATION.

*No. 2792—L. C., dated Bangalore, 27th November 1937.*

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore Extradition Bill is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,

*Secretary,*

*Mysore Legislative Council.*

# The Mysore Extradition Bill.

Whereas it is expedient to amend and consolidate the law relating to the extradition and rendition of criminals, It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

Short title, extent and commencement.

1. (i) This ~~Regulation~~ Act may be called the Mysore Extradition ~~Regulation~~ Act, 1938.

(ii) It extends to the whole of Mysore; and

(iii) It shall come into force from such date as the Government may, by notification in the Official Gazette, direct.

Definitions.

2. In this ~~Regulation~~ Act, unless there is anything repugnant in the subject or context—

(*a*) "extradition offence" means any such offence as is described in the schedule;

(*b*) "offence" includes any act wheresoever committed which would, if committed in Mysore, constitute an offence;

(*c*) "rules" include prescribed forms;

(*d*) "fugitive criminal" means any person accused or convicted of an extradition offence committed outside Mysore who is in or is suspected of being in some part of Mysore; and

(*e*) "prescribed" means prescribed by rules made under this Regulation.

## CHAPTER II.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF INDIAN STATES.

Application of Regulation.

3. Where an arrangement has been made with any State in India with respect to the surrender to such State of any fugitive criminals, the Government may, by notification in the Official Gazette, direct that this ~~Regulation~~ Act shall apply in the case of such State.

Every such notification shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Apprehension of fugitives.

4. Where this ~~Regulation~~ Act applies in the case of any State, every fugitive criminal of that State who is in or is suspected of being in any part of Mysore, shall be liable to be apprehended and surrendered in manner provided by this ~~Regulation~~ Act, whether the offence in respect of which the surrender is sought was committed before or after the date of the notification, and whether there is or is not any concurrent jurisdiction in any Court in Mysore over that offence.

Requisition for surrender.

5. (1) Where a requisition is made to the Government by or on behalf of the Government of any State in India in the case of which this ~~Regulation~~ Act applies for the surrender of a fugitive criminal of such State, who is or is suspected of being in Mysore, the Government may if it thinks fit issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction directing him to inquire into the case.

Summons or warrant for arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

Inquiry by Magistrate.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the offence of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence:

Committal

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government.

Bail.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(6) The Magistrate shall report the result of his inquiry to the Government, and shall forward, together with such report, any written statement which the fugitive

criminal may desire to submit for the consideration of th Government.

Reference to High Court if Government thinks necessary.

(7) If the Government is of opinion that such report or written statement raises an important questio of law, it may make an order referring such question of law to the High Court and the fugitive criminal shall no be surrendered until such question has been decided.

Warrant for surrender.

(8) If, upon receipt of such report and statemen or upon the decision of any such question, the Govern ment is of opinion that the fugitive criminal ought to b surrendered, it may issue a warrant for the custody an removal of such criminal and for his delivery at a plac and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8) to receive, hold in custody and convey the persons mentioned in the warrant, to the place named in the warrant, and if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as aperson accused of an offence against the law o Mysore may be re-taken upon an escape.

ischarge of ugitive criminal committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

6. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a State in India in the case of which this Regulation applies, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Government.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under sub-section (1) of Section 5

Person arrested not to be detained unless order received.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence of which he is accused or has been convicted.

Bail.

7. The Government may at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to discharge any person in custody at any time.

## CHAPTER III.

### Surrender of Fugitive Criminals in case of British India.

8. (1) Where an extradition offence has been committed or is supposed to have been committed by a person in British India and such person escapes into or is in Mysore, the Government may, on receipt of a requisition made by or on behalf of any Provincial Government in British India for the surrender of the said person direct the issue of a warrant addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, and such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Issue of warrant by Government in certain cases.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall be produced before the District Magistrate who shall record any statement made by him; such accused person shall then, unless released in accordance with the provisions of the Regulation, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Execution of such warrant.

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

9. (1) Where an endorsement has been made on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given, release such person from custody.

Magistrate to retain bond.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Government and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorised by the Government to take him into custody.

Deposit in lieu of bond and forfeiture of bonds.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisition for surrender

10. Where a requisition is made to the Government by or on behalf of any Provincial Government in British India for the surrender of any person accused of having committed in British India an offence other than an extradition offence, such requisition shall (except in so far as it relates to the taking of evidence to show that the offence is of a political character or is not an extradition offence) be dealt with so far as may be in accordance with the procedure prescribed by Section 5.

Power to Magistrates to issue warrants of arrest in certain cases.

11. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in British India and that such person may lawfully be surrendered or that warrant may be issued for his arrest

under Section 8, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report to the Government through the District Magistrate the issue of a warrant under this section.

Limit of time of detention of person arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by Section 10, or a warrant for the arrest of such person is issued under Section 8.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for offence in Mysore.

12. (1) A person accused of an offence committed in Mysore, not being the offence for which his surrender is asked or undergoing sentence under any conviction in Mysore shall not be surrendered except on the condition that such person be re-surrendered to the Government on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death wilfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to convicted persons.

13. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in British India, has escaped into or is in Mysore before his sentence has expired.

Abetment and attempt.

14. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and retaking under warrant issued under Chapter.

15. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter to receive, hold in custody and convey to the place named in the warrant the person mentioned in the warrant; and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore, may be re-taken upon an escape.

Power of Government to stay proceedings and discharge person in custody.

16. The Government may, by order, stay any proceedings taken under Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

17. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Regulation, and to an offence in respect of which a Court of Mysore has concurrent jurisdiction.

## CHAPTER IV.

### MISCELLANEOUS.

Receipt in evidence of exhibits, depositions and other documents.

18. In any proceedings under this Regulation, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if authenticated in the prescribed manner, be received as evidence.

Evidence by commission.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any State in India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included criminal proceeding.

20. (1) The Government may make rules to carry out the purpose of this Regulation. Act

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Regulation, Act and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(*b*) the seizure and disp[illegible] in Brit
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ndia or a State in India whose requisition may be acted upon un
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offences committed elsewhere;

(*d*) the manner of authenticating documents; and

(*e*) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Official Gazette and shall thereupon have effect as if enacted by this Regulation. Act

21. Notwithstanding anything in the Code of Criminal Procedure, 1904, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of Section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under Section 11.

Detention of persons arrested.

22. (1) On and from the date on which this Regulation comes into force, the Chief Commissioner's Notification No. III, dated 23rd July 1878, and Government Notification No. J. 219—Legis. 14-04-14, dated the 20th July 1907 shall be deemed to be repealed. Act

Repeal.

(2) All orders made and acts done under any of the notifications hereby repealed in respect of requisitions received before coming into force of this Regulation shall have the same force and effect as if they had been made or done under this Regulation. Act Act

23. Nothing contained in this Regulation shall affect or be deemed to have affected the prerogative of His Highness the Maharaja to direct, independently of

Prerogative of His Highness the Maharaja to direct extradition.

this Regulation, the extradition and surrender of any criminal found in Mysore.

*Explanation.*—In this section "criminal" includes a person accused or convicted in British India of an act which, whether or not constituting an offence if done in Mysore, constitutes an offence if done in British India.

## THE SCHEDULE.

### EXTRADITION OFFENCES.

(*The sections referred to are the sections of the Indian Penal Code*

Frauds upon creditors (Section 206).

Resistance to arrest (Section 224).

Offences relating to coin and stamps (Sections 230 to 263

Culpable homicide (Sections 299 to 304).

Attempt to murder (Section 307).

Thugee (Sections 310 and 311).

Causing miscarriage and abandonment of child (Sections 312 317).

Causing hurt (Sections 323 to 333).

Wrongful confinement (Sections 347 and 348).

Kidnapping and slavery (Sections 360 to 373).

Rape and unnatural offences (Sections 375 to 377).

Theft, extortion, robbery, etc. (Sections 378 to 414).

Cheating (Sections 415 to 420).

Fraudulent deeds, etc. (Sections 421 to 424).

Mischief (Sections 425 to 440).

Lurking, house-trespass (Sections 443 and 444).

Forgery, using forged documents, etc. (Sections 463 to 477-A).

Desertion from the Army.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offences against the laws relating to criminal tribes or against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Government by notification in the Official Gazette either generally for British India and all States or specially for British India or for any one or more States.

## Statement of Objects and Reasons.

For the extradition and surrender of fugitive criminals, Mysore has entered into reciprocal arrangements with some States, such as Hyderabad, Cochin, Puddukotah, Travancore, Sandur, Banganpalli, etc., but the procedure for giving effect to such arrangements rests mainly on executive action and has no statutory basis.

So far as the extradition of fugitive criminals to British India is concerned, the present procedure is the one prescribed by the Chief Commissioner's Notification No. 111, dated 23rd July 1878. According to it, whenever a warrant is issued by a British Indian Magistrate for the surrender of a fugitive criminal, it has to be acted upon by the Mysore Magistrate as if it were a warrant issued by himself and the fugitive surrendered. The offence for which a warrant can be issued under this notification need not be an offence under the law in Mysore; nor again need it necessarily be what is generally known as "an extradition offence."

Under the Indian Extradition Act of 1903, extradition is allowed only in respect of some few offences specified in the Schedule to the Act. According to it, a requisition has to be made to the British Resident together with the particulars of the offence, the whereabouts of the accused and the records of the criminal enquiry held by the Mysore Magistrate making a *prima facie* case against the accused. The Resident, after satisfying himself that a *prima facie* case has been made out, issues a warrant for the arrest of the accused. The Resident also satisfies himself that the surrendered accused receives a fair trial and the punishment is not excessive or barbarous.

Though the intention when the Chief Commissioner's Notification of 1878 was issued appears to have been to limit its operation to extradition offences, in practice, all offences and even offences of a purely fiscal nature such as failure to pay taxes due on a motor vehicle, offences more or less of a civil nature such as defamation and acts which have been penalised and which could not have been contemplated as offences when the Chief Commissioner's Notification was issued, have, in course of time, been brought under it.

The general principle underlying extradition between States is that each State should surrender in response to

the demands of others, all persons charged with crimes which are recognised by the general conscience of civilised nations as grave offences.

The existing law and procedure in respect of the surrender of fugitive criminals to British India have been examined in detail in the judgment of the Full Bench of the High Court of Mysore in Criminal Revision Petition No. 192 of 1932-33. In that case, it has been held that the Chief Commissioner's Notification of 1878 has the force of law in Mysore, but that the British Indian Magistrate was not legally competent to issue a warrant for execution outside the limits of British India, and that his warrant for execution in Mysore was illegal and without jurisdiction. In the case under reference, the offence was not one classed as extraditable under the law in force in British India, but the grounds for the decision about the illegality of the British Indian Magistrate's warrant seems to be of general application. In view of this decision, it appears that doubts are liable to be raised in regard to the surrender of fugitive criminals under the Chief Commissioner's Notification even in extradition cases.

It has therefore been considered desirable and necessary to place on a statutory basis the procedure adopted for the surrender and extradition of criminals from Mysore to other States and British India. This Bill is intended to give effect to this and also to remove the anomalies and inconveniences existing in the present procedure.

The Bill is modelled on the lines of the Indian Extradition Act, XV of 1903, and deals with extradition between—

1. Mysore and British India, and
2. Mysore and other States in India.

The Bill provides mainly for extradition in respect of offences which are known as extradition offences. These are enumerated in the Schedule which follows closely the Indian Act.

Chapter II deals with the surrender of criminals in the case of the States in India. The provisions will apply only in the case of such States between which and Mysore, there are arrangements for extradition. For the application of the Regulation, the Government

will have to issue a notification in this behalf reciting the terms of the arrangement.

The main features of the procedure for extradition in such cases are:

(*a*) a requisition has to be made by the State asking for the extradition of a fugitive;

(*b*) Government have to direct an enquiry by a Magistrate;

(*c*) the Magistrate has to issue process, hold an enquiry and find out whether a *prima facie* case is made out;

(*d*) the Magistrate after enquiry has to make a report;

(*e*) the Government may then issue a warrant for the surrender of the fugitive criminal.

Chapter III deals with surrender of criminals in the case of British India and the procedure prescribed herein follows closely the procedure under the Indian Act for extradition of fugitive criminals from British India to Mysore. In view of the existing arrangements between Mysore and British India, the enquiry by a magistrate contemplated in Part II is dispensed with in the case of extradition offences which are enumerated in the Schedule. The Government may on receipt of a requisition therefor and on being satisfied that a *prima facie* case has been committed, direct the issue of a warrant to the District Magistrate of the District concerned for the arrest of the fugitive criminal. The District Magistrate will have to arrest such person and release him on bail if so directed by the warrant, or deliver him to the person or authority indicated in the warrant.

Provision is also made for extradition to British India in respect of offences other than extradition offences. Requisitions in such cases will be dealt with in accordance with the procedure prescribed in Chapter II. After enquiry by a Magistrate, the Government may permit extradition in respect of such offences also.

Local Magistrates are empowered to arrest persons who are accused or suspected of having committed an extradition offence in British India or the State to which this Regulation applies pending the receipt of a requisition or the issue of a warrant for his arrest by the Government. Provision is made for the resurrender of persons undergoing sentence for offences in Mysore. The prerogative

right of His Highness to direct the extradition of any criminal in Mysore will not be affected and this will enable the performance of obligations under Article 15 of the Mysore Treaty.

The Bill had been introduced into the Legislative Council in June 1934 and had been referred to a Select Committee. The Report of the Select Committee was considered by the Legislative Council in December 1934 and the Bill as amended by the Select Committee was adopted by the Council. The passing of the Bill was, however, postponed to a subsequent meeting. But no further motion was made in the Legislative Council in respect of the Bill since December 1934. It has now become necessary to reintroduce it in the Council. The Bill now published is in accordance with the recommendation of the Select Committee. A slight addition to Clause 23 has also been made so as to make the provision clear.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. P 4652 Legis 23-37-1
Exec-one

Dated, Bangalore, 10.2.1938

Ordered that the accompanying Extradition Act

which received the assent of His Highness the Maharaja, on the 17th day of February 1938, be published as Regulation Act No. VI of 1938 in the *Mysore Gazette* for general information.

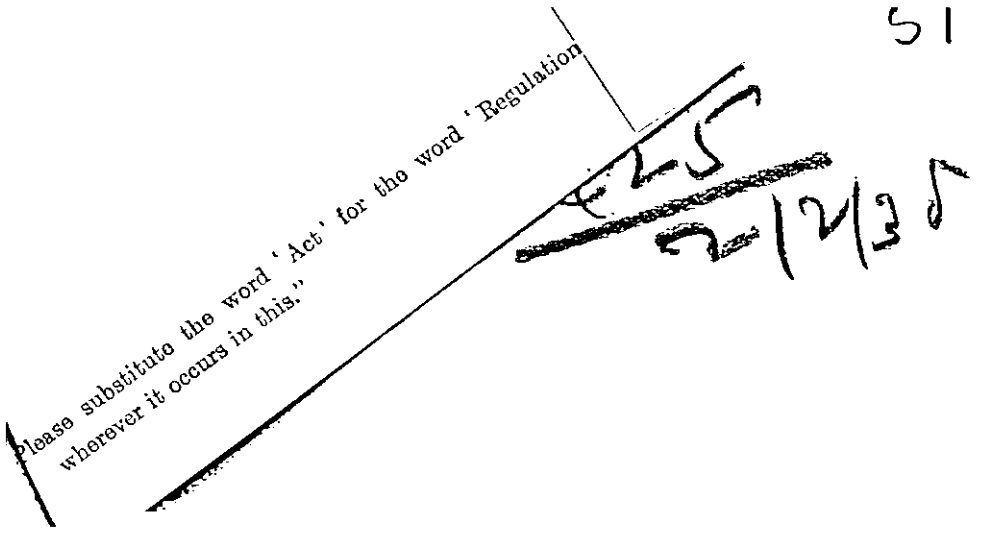
By order and in the name of the Governor

*Secretary to Government*
*Local and Legislative Departments*

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of — pare copies in English and — Kannada — this office, as per standing orders. Proof may be sent for approval

Copy to Executive Section




51

## NOTIFICATION.

*No. 2792—L. C., dated Bangalore, 27th November 1937.*

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Mysore Extradition Bill is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
*Secretary,*
*Mysore Legislative Council.*

## The Mysore Extradition Bill.

Whereas it is expedient to amend and consolidate the law relating to the extradition and rendition of criminals, It is hereby enacted as follows :—

### CHAPTER I.

### PRELIMINARY.

Short title, extent and commencement.

1. (i) This Regulation may be called the Mysore Extradition Regulation, 1931.

(ii) It extends to the whole of Mysore; and

(iii) It shall come into force from such date as the Government may, by notification in the Official Gazette, direct.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context—

(*a*) "extradition offence" means any such offence as is described in the schedule;

(*b*) "offence" includes any act wheresoever committed which would, if committed in Mysore, constitute an offence;

(*c*) "rules" include prescribed forms;

(*d*) "fugitive criminal" means any person accused or convicted of an extradition offence committed outside Mysore who is in or is suspected of being in some part of Mysore; and

(*e*) "prescribed" means prescribed by rules made under this Regulation.

### CHAPTER II.

### SURRENDER OF FUGITIVE CRIMINALS IN CASE OF INDIAN STATES.

Application of Regulation.

3. Where an arrangement has been made with any State in India with respect to the surrender to such State of any fugitive criminals, the Government may, by notification in the Official Gazette, direct that this Regulation shall apply in the case of such State.

Every such notification shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Apprehension of fugitives.

4. Where this Regulation applies in the case of any State, every fugitive criminal of that State who is in or is suspected of being in any part of Mysore, shall be liable to be apprehended and surrendered in manner provided by this Regulation, whether the offence in respect of which the surrender is sought was committed before or after the date of the notification, and whether there is or is not any concurrent jurisdiction in any Court in Mysore over that offence.

Requisition for surrender.

5. (1) Where a requisition is made to the Government by or on behalf of the Government of any State in India in the case of which this Regulation applies for the surrender of a fugitive criminal of such State, who is or is suspected of being in Mysore, the Government may if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction directing him to inquire into the case.

Summons or warrant for arrest.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

Inquiry by Magistrate.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the offence of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence.

Committal

(4) If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government.

Bail.

(5) If the Magistrate is of opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force; the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(6) The Magistrate shall report the result of his inquiry to the Government, and shall forward, together with such report, any written statement which the fugitive

criminal may desire to submit for the consideration of the Government.

Reference to High Court if Government thinks necessary.

(7) If the Government is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to the High Court and the fugitive criminal shall not be surrendered until such question has been decided.

Warrant for surrender.

(8) If, upon receipt of such report and statement or upon the decision of any such question, the Government is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8) to receive, hold in custody and convey the persons mentioned in the warrant, to the place named in the warrant, and if, such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore may be re-taken upon an escape.

ischarge of ugitive criminal committed to prison after two months.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

6. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a State in India in the case of which this Regulation applies, he may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section to the Government.

(3) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under sub-section (1) of Section 5

Person arrested not to be detained unless order received.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence of which he is accused or has been convicted.

Bail.

7. The Government may at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

Power of Government to discharge any person in custody at any time.

## CHAPTER III.

### Surrender of Fugitive Criminals in case of British India.

8. (1) Where an extradition offence has been committed or is supposed to have been committed by a person in British India and such person escapes into or is in Mysore, the Government may, on receipt of a requisition made by or on behalf of any Provincial Government in British India for the surrender of the said person direct the issue of a warrant addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, and such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Issue of warrant by Government in certain cases.

(2) A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall be produced before the District Magistrate who shall record any statement made by him; such accused person shall then, unless released in accordance with the provisions of the Regulation, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Execution of such warrant.

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

9. (1) Where an endorsement has been made on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given, release such person from custody.

Magistrate to retain bond.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Government and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorised by the Government to take him into custody.

Deposit in lieu of bond and forfeiture of bonds.

(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisition for surrender

10. Where a requisition is made to the Government by or on behalf of any Provincial Government in British India for the surrender of any person accused of having committed in British India an offence other than an extradition offence, such requisition shall (except in so far as it relates to the taking of evidence to show that the offence is of a political character or is not an extradition offence) be dealt with so far as may be in accordance with the procedure prescribed by Section 5.

Power to Magistrates to issue warrants of arrest in certain cases.

11. (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in British India and that such person may lawfully be surrendered or that warrant may be issued for his arrest

under Section 8, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report to the Government through the District Magistrate the issue of a warrant under this section.

Limit of time of detention of person arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by Section 10, or a warrant for the arrest of such person is issued under Section 8.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Mysore the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for offence in Mysore.

12. (1) A person accused of an offence committed in Mysore, not being the offence for which his surrender is asked or undergoing sentence under any conviction in Mysore shall not be surrendered except on the condition that such person be re-surrendered to the Government on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death walfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in Mysore, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to convicted persons.

13. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in British India, has escaped into or is in Mysore before his sentence has expired.

Abetment and attempt.

14. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and retaking under warrant issued under Chapter.

15. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter to receive, hold in custody and convey to the place named in the warrant the person mentioned in the warrant; and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Mysore, may be re-taken upon an escape.

Power of Government to stay proceedings and discharge person in custody.

16. The Government may, by order, stay any proceedings taken under Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

17. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Regulation, and to an offence in respect of which a Court of Mysore has concurrent jurisdiction.

## CHAPTER IV.

### MISCELLANEOUS.

Receipt in evidence of exhibits, depositions and other documents.

18. In any proceedings under this Regulation; exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if authenticated in the prescribed manner, be received as evidence.

Evidence by commission.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any State in India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included criminal proceeding.

Power to make rules.

20. (1) The Government may make rules to carry out the purpose of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Regulation, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(*b*) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Regulation applies;

(*c*) the pursuit and arrest in Mysore, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere;

(*d*) the manner of authenticating documents; and

(*e*) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Official Gazette and shall thereupon have effect as if enacted by this Regulation.

Detention of persons arrested.

21. Notwithstanding anything in the Code of Criminal Procedure, 1904, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of Section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under Section 11.

Repeal.

22. (1) On and from the date on which this Regulation comes into force, the Chief Commissioner's Notification No. III, dated 23rd July 1878, and Government Notification No. J. 219—Legis. 14-04-14, dated the 20th July 1907 shall be deemed to be repealed.

(2) All orders made and acts done under any of the notifications hereby repealed in respect of requisitions received before coming into force of this Regulation shall have the same force and effect as if they had been made or done under this Regulation.

Prerogativ of His Hig ness the Maharaja direct extr dition.

23. Nothing contained in this Regulation shall affect or be deemed to have affected the prerogative of His Highness the Maharaja to direct, independently of

this Regulation, the extradition and surrender of a criminal found in Mysore.

*Explanation.*—In this section "criminal" includ a person accused or convicted in British India of an a which, whether or not constituting an offence if done Mysore, constitutes an offence if done in British India.

## THE SCHEDULE.

### EXTRADITION OFFENCES.

(*The sections referred to are the sections of the Indian Penal Code.*)

Frauds upon creditors (Section 206).

Resistance to arrest (Section 224).

Offences relating to coin and stamps (Sections 230 to 263-A).

Culpable homicide (Sections 299 to 304).

Attempt to murder (Section 307).

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Causing hurt (Sections 323 to 333).

Wrongful confinement (Sections 347 and 348).

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Cheating (Sections 415 to 420).

Fraudulent deeds, etc. (Sections 421 to 424).

Mischief (Sections 425 to 440).

Lurking, house-trespass (Sections 443 and 444).

Forgery, using forged documents, etc. (Sections 463 to 477-A).

Desertion from the Army.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offences against the laws relating to criminal tribes or against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Government by notification in the Official Gazette either generally for British India and all States or specially for British India or for any one or more States.

## Statement of Objects and Reasons.

For the extradition and surrender of fugitive criminals, Mysore has entered into reciprocal arrangements with some States, such as Hyderabad, Cochin, Puddukotah, Travancore, Sandur, Banganpalli, etc., but the procedure for giving effect to such arrangements rests mainly on executive action and has no statutory basis.

So far as the extradition of fugitive criminals to British India is concerned, the present procedure is the one prescribed by the Chief Commissioner's Notification No. 111, dated 23rd July 1878. According to it, whenever a warrant is issued by a British Indian Magistrate for the surrender of a fugitive criminal, it has to be acted upon by the Mysore Magistrate as if it were a warrant issued by himself and the fugitive surrendered. The offence for which a warrant can be issued under this notification need not be an offence under the law in Mysore; nor again need it necessarily be what is generally known as "an extradition offence."

Under the Indian Extradition Act of 1903, extradition is allowed only in respect of some few offences specified in the Schedule to the Act. According to it, a requisition has to be made to the British Resident together with the particulars of the offence, the whereabouts of the accused and the records of the criminal enquiry held by the Mysore Magistrate making a *prima facie* case against the accused. The Resident, after satisfying himself that a *prima facie* case has been made out, issues a warrant for the arrest of the accused. The Resident also satisfies himself that the surrendered accused receives a fair trial and the punishment is not excessive or barbarous.

Though the intention when the Chief Commissioner's Notification of 1878 was issued appears to have been to limit its operation to extradition offences, in practice, all offences and even offences of a purely fiscal nature such as failure to pay taxes due on a motor vehicle, offences more or less of a civil nature such as defamation and acts which have been penalised and which could not have been contemplated as offences when the Chief Commissioner's Notification was issued, have, in course of time, been brought under it.

The general principle underlying extradition between States is that each State should surrender in response to

the demands of others, all persons charged with crimes which are recognised by the general conscience of civilised nations as grave offences.

The existing law and procedure in respect of the surrender of fugitive criminals to British India have been examined in detail in the judgment of the Full Bench of the High Court of Mysore in Criminal Revision Petition No. 192 of 1932-33. In that case, it has been held that the Chief Commissioner's Notification of 1878 has the force of law in Mysore, but that the British Indian Magistrate was not legally competent to issue a warrant for execution outside the limits of British India, and that his warrant for execution in Mysore was illegal and without jurisdiction. In the case under reference, the offence was not one classed as extraditable under the law in force in British India, but the grounds for the decision about the illegality of the British Indian Magistrate's warrant seems to be of general application. In view of this decision, it appears that doubts are liable to be raised in regard to the surrender of fugitive criminals under the Chief Commissioner's Notification even in extradition cases.

It has therefore been considered desirable and necessary to place on a statutory basis the procedure adopted for the surrender and extradition of criminals from Mysore to other States and British India. This Bill is intended to give effect to this and also to remove the anomalies and inconveniences existing in the present procedure.

The Bill is modelled on the lines of the Indian Extradition Act, XV of 1903, and deals with extradition between—

1. Mysore and British India, and
2. Mysore and other States in India.

The Bill provides mainly for extradition in respect of offences which are known as extradition offences. These are enumerated in the Schedule which follows closely the Indian Act.

Chapter II deals with the surrender of criminals in the case of the States in India. The provisions will apply only in the case of such States between which and Mysore, there are arrangements for extradition. For the application of the Regulation, the Government

will have to issue a notification in this behalf reciting the terms of the arrangement.

The main features of the procedure for extradition in such cases are :—

(*a*) a requisition has to be made by the State asking for the extradition of a fugitive ;

(*b*) Government have to direct an enquiry by Magistrate ;

(*c*) the Magistrate has to issue process, hold an enquiry and find out whether a *prima facie* case is made out ;

(*d*) the Magistrate after enquiry has to make a report ;

(*e*) the Government may then issue a warrant for the surrender of the fugitive criminal.

Chapter III deals with surrender of criminals in the case of British India and the procedure prescribed herein follows closely the procedure under the Indian Act for extradition of fugitive criminals from British India to Mysore. In view of the existing arrangements between Mysore and British India, the enquiry by a magistrate contemplated in Part II is dispensed with in the case of extradition offences which are enumerated in the Schedule. The Government may on receipt of a requisition therefor and on being satisfied that a *prima facie* case has been committed, direct the issue of a warrant to the District Magistrate of the District concerned for the arrest of the fugitive criminal. The District Magistrate will have to arrest such person and release him on bail if so directed by the warrant, or deliver him to the person or authority indicated in the warrant.

Provision is also made for extradition to British India in respect of offences other than extradition offences. Requisitions in such cases will be dealt with in accordance with the procedure prescribed in Chapter II. After enquiry by a Magistrate, the Government may permit extradition in respect of such offences also.

Local Magistrates are empowered to arrest persons who are accused or suspected of having committed an extradition offence in British India or the State to which this Regulation applies pending the receipt of a requisition or the issue of a warrant for his arrest by the Government. Provision is made for the resurrender of persons undergoing sentence for offences in Mysore. The prerogative

right of His Highness to direct the extradition of any criminal in Mysore will not be affected and this wil enable the performance of obligations under Article 15 o the Mysore Treaty.

The Bill had been introduced into the Legislative Council in June 1934 and had been referred to a Select Committee. The Report of the Select Committee was considered by the Legislative Council in December 1934 and the Bill as amended by the Select Committee was adopted by the Council. The passing of the Bill was, however, postponed to a subsequent meeting. But no further motion was made in the Legislative Council in respect of the Bill since December 1934. It has now become necessary to reintroduce it in the Council. The Bill now published is in accordance with the recommendation of the Select Committee. A slight addition to Clause 23 has also been made so as to make the provision clear.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

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ORDER NO. P4652 Legs 23-37-1/Income

Dated, Bangalore, 10th February 1938.

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Ordered that the accompanying Extradition Act, which received the assent of His Highness the Maharaja, on the third day of February 1938, be published as Act No.VI of 1938 in the Mysore Gazette for general information.

10.2

By order,
General Secretary to Government

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing order. Proof may be sent for approval.

S.V.K.

Pol 930 Ed 2 Legis 23-37

To d 21-2-1938

The Secretary to the Hon'ble
the Resident in Mysore.

Sir,

In continuation of this office letter No.Pol.683 dated the 22nd December 1937 re: the Extradition Bill, I am directed to forward herewith two copies of the Bill as finally passed by the Legislative Council, and to state that the Bill has been promulgate into law as Mysore Extradition Act VI of 1938. The modifications suggested by the Crown Representative and noted in paragraphs (a) to (d) of your letter No.F.1178-37/R.O.I dated the 26th August 1937 have been incorporated in the Bill as finally passed as detailed below:-

(1) The words "extradition crime" in clause 5(3) have been changed into "extradition offence" and the word "crime" in clause 6(1) into "offence";

(2) the words "in so far as they are inconsistent with the provisions of this Regulation" in clause 22(1) have been omitted;

(3) an explanation has been added to clause 23 so as to make it clear that the word "criminal" in that section includes a person accused of an act which would constitute an offence in British India though it may not constitute an offence if done in Mysore;

(4) references to Local Governments have been changed into references to Provincial Governments.

Clause 20(2) (e) in the bill which had been omitted in the copy of the bill sent to you with this office letter No. Pol 683 dated the 22nd Dec 1937 has been restored in the bill in its final form.

In framing rules under clause 20, the District Magistrates in British India will, as stated in paragraph 4 of your letter of the 26th August 1937, be prescribed as the authorities upon whose requisitions the Mysore Government may act.

I have &c.,

17.2.38

Chief Secretary to Governm

17-2

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYS

General and Revenue Secretariat

Dated, Bangalore, 18th February 1938

No. Pol 930 Legi

Encl

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Secretary to the Hon'ble the Resident in Mysore

Sir,

In continuation of this office letter No.Pol.683 dated th 22nd December 1937 regarding the Extradition Bill, I am directed to forward herewith two copies of the Bill as finally passed by the Legislative Council and to state that the Bill has been promulgated into law as Mysore Extradition Act VI of 1938. The modifications suggested by His Excellency the Crown Representative and noted in paragraphs (a) to (d) of your letter No.F.1178-37/R.O. dated the 26th August 1937 have been incorporated in the Bill as finally pas as detailed below:-

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(4) references to Local Governments have been changed into references to Provincial Governments.

Clause 20(2)(s) in the bill which had been omitted in the copy of the bill sent to you with this office letter No.Pol.683 da the 22nd December 1937 has been restored in the bill in its final form

In framing rules under clause 20, the District Magistrate in British India will, as stated in paragraph 4 of your letter of

the 26th August 1937, be prescribed as the authorities upon whose requisitions the Mysore Government may act.

I have the honor to be,
Sir,
Your most obedient servant.

Chief Secretary to Government.